रजिस्ट्री सं. डी.एल. (एन) 04/0007/2003—05 REGD. NO. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
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सं. 24] नई दिल्ली, जून 22—जून 28, 2025, शनिवार/ आषाढ़ 1—आषाढ़ 7, 1947
No. 24] NEW DELHI, JUNE 22—JUNE 28, 2025, SATURDAY /ASHADHA 1– ASHADHA 7, 1947

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 19 जून, 2025

का.आ. 1092.—भारतीय जीवन बीमा निगम श्रेणी III और श्रेणी IV कर्मचारी (सेवा के निबंधन और शर्तों का संशोधन) नियमावली, 1985 के नियम 13 के उपनियम- (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, यह निर्धारित करती है कि उक्त उप नियम के अन्य उपबंधों के अध्यधीन, भारतीय जीवन बीमा निगम के श्रेणी III और श्रेणी IV के प्रत्येक कर्मचारी को निम्नलिखित अवधि के बोनस के बदले में भुगतान, उनके वेतन के 15 प्रतिशत की दर से किया जाएगा:

i) 1 अप्रैल, 2021 से मार्च 31, 2022 की समाप्ति तक; और

ii) अप्रैल 1, 2022 से मार्च 31, 2023 की समाप्ति तक; और

iii) अप्रैल 1, 2023 से मार्च 31, 2024 की समाप्ति तक

[ई फा. सं. एम-16014/02/2022बीमा-I]

अब्दुल गुफरान, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 19th June, 2025

S.O. 1092.—In exercise of the powers conferred by sub-rule (2) of rule 13 of the Life Insurance Corporation of India Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985, the Central Government hereby determines that, subject to other provisions of the said sub-rule, the payment in lieu of bonus for the following periods to every Class III and Class IV employee of Life Insurance Corporation of India shall be at the rate of 15 percent of his/ her salary: -

i) From 1st day of April, 2021 and ending with 31st day of March, 2022; and

ii) From 1st day of April, 2022 and ending with 31st day of March, 2023; and

iii) From 1st day of April, 2023 and ending with 31st day of March, 2024.

[eF. No. M-16014/02/2022-Ins.I]

ABDUL GUFRAN, Under Secy.

विदेश मन्त्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 20 जून, 2025

का.आ. 1093.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्द्वारा, केंद्र सरकार, जून 20, 2025 से कांसुलर सेवाएं के निर्वहन करने के लिए विदेश में भारतीय मिशनों/पोस्टों में सहायक कांसुलर अधिकारियों के रूप में इस मंत्रालय के नीचे उल्लिखित अधिकारियों की नियुक्ति करता है:

क्रम सं.	अधिकारी का नाम और पद	मिशन / पोस्ट जिसमें सहायक कांसुलर अधिकारी के रूप में नियुक्त किया गया है
1	श्री बरमेश्वर नाथ पांडे,सहायक अनुभाग अधिकारी	भारतीय उच्चायोग, मापुटो, मोजाम्बिक
2	श्री अमित शर्मा,सहायक अनुभाग अधिकारी	भारतीय दूतावास, बोगोटा
3	श्री मकवाना जय रमेशभाई,सहायक अनुभाग अधिकारी	भारतीय दूतावास, त्रिपोली, लीबिया
4	श्री ऋत्विक कलुभाई जादव,सहायक अनुभाग अधिकारी	भारत के प्रधान कोंसलावास, ह्यूस्टन

[फा. सं. टी. 4330/01/2025(30)]

नबा कुमार पाल, निदेशक (सीपीवी)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 20th June, 2025

S.O. 1093.—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1048), the Central Government hereby appoints the below mentioned officials of this Ministry, as Assistant Consular Officers in Indian Missions/Posts abroad to perform Consular services with effect from June 20, 2025:

S. No	Name & Rank of the Officer	Mission/Post wherein appointed as Assistant Consular Officer
1	Shri Barameshwar Nath Pandey, Assistant Section Officer	High Commission of Maputo, Mozambique
2	Shri Amit Sharma, Assistant Section Officer	Embassy of India, Bogota
3	Shri Makwana Jay Rameshbhai, Assistant Section Officer	Embassy of India, Tripoli, Libya
4	Shri Rutvik Kalubhai Jadav, Assistant Section Officer	Consulate General of India, Houston

[F. No. T. 4330/01/2025 (30)]

NABA KUMAR PAL, Director (CPV)

सहकारिता मंत्रालय

नई दिल्ली, 18 जून, 2025

का.आ. 1094.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में सहकारिता मंत्रालय के अधीन राष्ट्रीय सहकारी प्रशिक्षण परिषद के निम्नलिखित अधीनस्थ कार्यालय में 80% से अधिक कर्मचारीवृंद को हिंदी का कार्यसाधक ज्ञान हो जाने के फलस्वरूप एतद्वारा अधिसूचित करती है:

धनंजयराव गाडगिल सहकारी प्रबंध संस्थान

नागपुर, महाराष्ट्र

[फा. सं. ई-14018/1/2024- सहकारिता मंत्रालय/046]

अफसर अहमद, निदेशक

MINISTRY OF COOPERATION

New Delhi, the 18th June, 2025

S.O. 1094.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976; the Central Government hereby notifies the under mentioned subordinate office of National Council for Cooperative Training under the Ministry of Cooperation wherein more than 80% of the staff have acquired the working knowledge of Hindi:

Dhananjay Rao Gadgil Institute of Cooperative Management

Nagpur, Maharashtra

[F. No. E-14018/1/2024-MoC/046]

AFSAR AHMED, Director

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 18 जून, 2025

का.आ. 1095.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **सी सी एल** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण- सह- श्रम न्यायालय, धनबाद-I** के पंचाट **(संदर्भ संख्या 20/2006)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **05/05/2025** को प्राप्त हुआ था।

[सं. एल-20012/55/2005-आईआर(सी.एम-I)]

मणिकंदन.एन, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 18th June, 2025

S.O. 1095.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 20/2006*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of **CCL.** and **their workmen** received by the Central Government on **05/05/2025**

[No. L-20012/55/2005– IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 20/2006

Employer in relation to the management of Kedla Washery of M/s. CCL, Hazaribagh.

AND.

Their workman.

Present: **Shri Dinesh Kumar Singh**

Presiding Officer/Link Officer

Appearances:

For the Employers :- Sri D.K. Verma, Ld. Advocate.

For the workman. :- None.

State : Jharkhand. Industry:- Coal

Dated 17/04/2025

AWARD.

By Order No.L-20012/55/2005-IR(C-I) dated 09/12/2005 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal: __

SCHEDULE

"Whether the demand of the Coalfield Mazdoor Union from the management of CCL, Kedla Washery that Sh. Raj Kumar Munda, Mangri Kamin and Savitri Devi may be regularized as sweepers is justified? If so, to what relief are the workmen entitled and from what date?"

2. This reference is received on 02/01/2006 by this Tribunal in which the Regional Secretary, Coalfield Mazdoor Union, Tapin, Hazaribagh had been advised to submit statement of claim along with relevant document before the Tribunal within fifteen days of receipt of the reference but the workman/union did not appear before the Tribunal. However after receipt of the reference, both parties were noticed but the workman/union didn't appear before the Tribunal. Further the management had appeared on certain dates but the workman/union failed to appear before this Tribunal. Now the Case is pending since 02/01/2006 and workman/union is not appearing before Tribunal. so, it is felt that workman/union has lost its interest in this matter. Hence "No Claim" Award is passed. Communicate.

D.K. SINGH, Presiding Officer/Link Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1096.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह – श्रम न्यायालय नंबर** 1, चंडीगढ़ के पंचाट **(संदर्भ संख्या 85/2018)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-23012/145/2018-आईआर(सी.एम- II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1096.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No.85/2018*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19*/06/2025***

[No. L-23012/145/2018– IR (CM- II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Presiding Officer: Sh. Brajesh Kumar Gautam.

ID No. 85/2018

Registered On: 03.12.2018

Vipin Kumar & others Wd/O Late Mastana Ram Village & PO Hawan, Tehsil Ghumarwin, Distt-Mandi (HP).

.....Workman

Versus

1. The Chairman, Bhakhra Beas Management Board, Madhya Marg, Sector 19-B, Chandigarh-160019.

2. The Chief Engineer Bhakra Beas Management Board, BSL Project, Sundernagar-175038.

.....Management

AWARD

Passed On: 27.01.2025

Central Government vide Notification No. L-23012/145/2018-IR(CM-II) dated 15.11.2018, under clause (d) of Sub-Section (1) sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> "**Whether the action of management of BBMB in not accepting the demands of Sh. Vipin Kumar & Others, LH/LR of Late Mastana Ram, for declaring his retrenchment/termination as illegal and considering him in continuous service upto age of superannuation resulting in entitlement of consequential benefits is legal, just and valid? If not, to what relief the legal heirs/ legal representatives of late workman are entitled to and from which date?"**

1. During the pendency of the proceedings before this Tribunal the case was fixed for filing claim statement by Workman but none is responding on behalf of workman. It is submitted by the Ld. Counsel for the management that workman is not turning up since long and prayed for dismissal of the present claim petition.

2. Perused the file and it is found that the submissions made by the Ld. Counsel for management is true. Several opportunities have already been given to the workman for filing claim statement but of no use. Which denotes that the workman is not interested in adjudication of the matter on merits as such, this Tribunal is left with no choice except to pass a 'No Claim Award'. Accordingly, no claim award is passed in the present case for the non-prosecution of workman. File after completion be consigned in the record room.

3. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

B.K. GAUTAM, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1097.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल,के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, धनबाद-1 के पंचाट **(संदर्भ संख्या 43/2020** को प्रकाशित करती है, जो केन्द्रीय सरकार को **17/06/2025** को प्राप्त हुआ था।

[सं. एल-20012/52/2020-आईआर(सी.एम-I)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1097.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 43/2020*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-1** as shown in the Annexure, in the industrial dispute between the Management of **B.C.C.L,** and **their workmen** received by the Central Government on 17***/06/2025***.

[No. L-20012/52/2020– IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 43/2020

Employer in relation to the management of E.J. Area of M/s. BCCL, Dhanbad.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- None.

For the workman. :- Sri Ashutosh Kumar Bhandari, Representative

State : Jharkhand. Industry:-Coal

Dated 05/06/2025

AWARD.

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government Of India through the Ministry of Labour, vide its Order No.L-20012/52/2020-(IR(CM-I)) dated 09/11/2020 has been pleased to refer the following dispute between the employer i.e. management of E.J. Area of M/s. BCCL and their workman through Working President, The Jharkhand Colliery Mazdoor Union, Dhanbad for adjudication by this Tribunal:

SCHEDULE

"Whether the action of management of M/s. Bharat Coking Coal Limited in dismissing Shri AnchaBhuia, Minor/Loader, Pers. No. 02991016, is justified? If not, to what relief the workman is entitled to?"

2. On receiving order no. L-20012/52/2020-(IR(CM-I)) dated 09/11/2020 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 43 of 2020 was registered on 01.12.2020 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. After issuance of notice, though none appeared from both sides previously but later on Sri Naresh Prasad, Advocate appeared and filed authority letter on behalf of the management and likewise Sri S.N. Ghosh, Advocate appeared from the side of the workman and thereafter both of them absented themselve. Today on 05.06.2025, Sri Ashutosh Kumar Bhandari, Branch Secretary of Loyabad Colliery who was authorized to represent the workman, appeared from the side of workman and furnished a copy of the death certificate of the workman AnchaBhuia and prayed to close the case.

4. On perusal of the Xerox copy of death certificate of the workman AnchaBhuia it transpires that the workman has died on 24.01.2022.

5. It further transpires that the relief as per the reference is personal in nature and therefore the case cannot be proceeded with due to the death of the workman and therefore, for the ends of justice, this case deserves to be dismissed.

6. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1098.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल, के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, धनबाद-1** के पंचाट **(संदर्भ संख्या 87/2006)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **17/06/2025** को प्राप्त हुआ था।

[सं. एल-20012/47/2006-आई.आर.(सी.एम-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1098.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 87/2006)** of t**he Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-1** as shown in the Annexure, in the industrial dispute between the Management of **B.C.C.L,** and **their workmen** received by the Central Government on 17***/06/2025.***

[No. L-20012/47/2006– IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 87/2006

Employer in relation to the management of M/s. Barora Area-I of M/s. BCCL, Dhanbad.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- Sri N. Nath (O.S. Legal H.Q.)

For the workman. :- None.

State : Jharkhand. Industry:- Coal

Dated 03/06/2025

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government Of India through the Ministry of Labour, vide its Order No.L-20012/47/2006-(IR(CM-I)) dated 30/08/2006, has been pleased to refer the following dispute between the employer i.e. management of Barora Area-I of M/s BCCL and their workman through Jt. General Secretary, Rashtriya Colliery Mazdoor Congress for adjudication by this Tribunal:

SCHEDULE

"Whether the demand of the RCMC from the management of BCCL, Barora Area-I, that Sh. Bhondu B.P. Shovel Operator be promoted to grade `e` w.e.f. 1.1.99 and to Gr. `B` w.e.f. Jan. 2002 with all consequential benefits justified? If so, to what relief is the workman entitled?"

2. On receiving order no. L-20012/47/2006-(IR(CM-I)) dated 30/08/2006 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 87 of 2006 was registered on 15.09.2006 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. After issuance of notice, the registered post was returned with remarks "addressee left" and thereafter no further step was taken. Not only this, none appeared from the side of the management also though Sri N. Nath (O.S. Legal H.Q) appeared on 03.06.2025 from the side of the employer but the workman never appeared before the Tribunal since 15.09.2006.

4. On perusal of the entire case record it is transpires that the workman never appeared before this Tribunal for a period of 19 years which shows that the workman has no interest in this case and therefore, for the ends of justice, this case deserves to be dismissed.

5. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1099.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल, के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, धनबाद-1** के पंचाट **(संदभ संख्या 88/2004)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **17/06/2025** को प्राप्त हुआ था।

[सं. एल-20012/95/2004-आईआर(सी.एम-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1099.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 88/2004*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-1** as shown in the Annexure, in the industrial dispute between the Management of **B.C.C.L,** and **their workmen** received by the Central Government on 17***/06/2025.***

[No. L-20012/95/2004– IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 88/2004

Employer in relation to the management of Govindpur Area-III of M/s. BCCL, Dhanbad.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- Sri Chandramani Kumar, Asstt. Manager (L)

For the workman. :- None.

State : Jharkhand. Industry:-Coal

Dated 06/06/2025

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),Government Of India through the Ministry of Labour, vide its Order No.L-20012/95/2004-IR(C-I) dated 01/09/2004 has been pleased to refer the following dispute between the employer i.e. management of Govindpur Area-III of M/s. BCCL and their workman through Vice President, Bihar Colliery Kamgar Union, Dhanbad for adjudication by this Tribunal:

SCHEDULE

"Whether the action of the management in not allowing Sri GirdhariRewani to resume duty after his absence from 11.3.02 to 29.6.02 is just, fair & legal? If not, to what relief is Sri GirdhariRewani entitled?"

2. On receiving order no. L-20012/95/2004-IR(C-I) dated 01/09/2004 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 88 of 2004 was registered on 14.09.2004 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. Even after issuance of notice, none appeared from either side though on 06.06.2025, Sri Chandramani Kumar, Asstt. Manager (L) of management appeared. The case record shows that after issuance of notice, the workman never appeared before the Tribunal since the year 2004 which makes it clear that the workman has no interest in this case and therefore, this Tribunal is of the opinion that this case deserves to be dismissed for non prosecution.

4. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY**,** Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1100.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल, के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार आद्योगिक अधिकरण – सह – श्रम न्यायालय, धनबाद-1** के पंचाट **(संदर्भ संख्या 46/2002)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **17/06/2025** को प्राप्त हुआ था।

[सं. एल-20012/517/2001-आईआर(सी.एम-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1100.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 46/2002*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-1** as shown in the Annexure, in the industrial dispute between the Management of **B.C.C.L,** and **their workmen** received by the Central Government on 17***/06/2025.***

[No. L-20012/517/2001– IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 46/2002

Employer in relation to the management of Tapin South Charhi Area of M/s. CCL, Hazaribag.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- None.

For the workman. :- None.

State : Jharkhand. Industry:-Coal

Dated 06/06/2025

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),Government Of India through the Ministry of Labour, vide its Order No.L-20012/517/2001-IR(C-I) dated 04/04/2002 has been pleased to refer the following dispute between the employer i.e. management of Tapin South Charhi Area of M/s. CCL and their workman through Chairman, J.M.S, Hazaribag for adjudication by this Tribunal:

SCHEDULE

"**क्या सी.सी.एल., तपिन साउथ चरही क्षेत्र के प्रबंधतंत्र द्वारा श्री भीखू गञ्झू कर्मकार को दिनांक 31.3.2001 से सेवा निवृत्त किया जाना उचित एवं न्यायसंगत है? यदि नहीं तो उक्त कर्मकार किस राहत के पात्र हैं?**"

2. On receiving order no. L-20012/517/2001-IR(C-I) dated 04/04/2002 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 46 of 2002 was registered on 26.04.2002 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. After issuance of notice, none appeared from either side. On perusal of the entire case record it transpires that this case is of the year 2002 and for the last 23 years none appeared in this case which shows that the workman has no interest in this case and therefore, this case deserves to be dismissed due to non prosecution.

4. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY**,** Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1101.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल**,**के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्यागिक अधिकरण – सह – श्रम न्यायालय**, धनबाद-1 के पंचाट **(संदर्भ संख्या 48/2004** को प्रकाशित करती है, जो केन्द्रीय सरकार को **17/06/2025** को प्राप्त हुआ था।

[सं. एल-20012/27/2004-आईआर(सी.एम-I)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1101.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 48/2004*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-1** as shown in the Annexure, in the industrial dispute between the Management of **C.C.L,** and **their workmen** received by the Central Government on 17***/06/2025.***

[No. L-20012/27/2004– IR (CM-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 48/2004

Employer in relation to the management of Gidi Washery of M/s. CCL, Hazaribag.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- Sri D.K. Verma, Ld. Advocate

For the workman. :- None.

State : Jharkhand. Industry:-Coal

Dated 06/06/2025

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),Government Of India through the Ministry of Labour, vide its Order No. L-20012/27/2004-IR(C-I) dated 08/06/2004 has been pleased to refer the following dispute between the employer i.e. management of Gidi Washery of M/s. CCL and their workman through Secretary, U.C.W.U, Gidi for adjudication by this Tribunal:

SCHEDULE

"Whether the action of the management of Gidi Washery of M/s C.C.Ltd not to regularize the services of Shri Vidya Nath Paswan as clerk Gr. III is justified? If not, to what relief is the workman concerned entitled and from what date?"

2. On receiving order no. L-20012/27/2004-IR(C-I) dated 08/06/2004 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 48 of 2004 was registered on 16.06.2004 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. After issuance of notice, none appeared from either side since the year 2004 though Sri D.K. Verma, Ld. Advocate appeared on 06.06.2025 from the side of the employer but the workman never appeared before the Tribunal since 16.06.2004.

4. On perusal of the entire case record it is transpires that the workman never appeared before this Tribunal for a period of 21 years which shows that the workman has no interest in this case and therefore, for the ends of justice, this case deserves to be dismissed.

5. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1102.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह – श्रम न्यायाल; नंबर** 1, चंडीगढ़ के पंचाट **(संदर्भ संख्या 55/2018)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-23012/19/2018-आईआर(सी.एम- II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1102.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 55/2018*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 1, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19*/06/2025***.

[No. L-23012/19/2018– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

Presiding Officer: Sh. Brajesh Kumar Gautam.

ID No. 55/2018

Registered On: 29.05.2018

Jeevan Ram S/o Sh. Moti Ram C/o Sh. R.K. Singh Parmar, General Secretary, Punjab, INTUC, 211L, Ward No.11, Post Office Partap Nagar, Nangal Dam, District Ropar-Punjab.

Versus

1. The Chairman, Bhakhra Beas Management Board, Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer BSL Project, BBMB Sundernagar, District Mandi, HP.
3. The Executive Engineer, Electrical and Mechanical Division, BBMB Pandoh, Distt. Mandi, HP.
4. The Executive Engineer, Pandoh Dam Division, BBMB, Pandoh District Mandi HP.

.....Managements

AWARD

Passed On: 04.02.2025

Central Government vide Notification No. L-23012/19/2018-IR(CM-II) dated 24.05.2018, under clause (d) of Sub-Section (1) sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

1. "**Whether the alleged termination of the services of Shri Jeevan Ram S/o Shri Moti Ram w.e.f. 04.01.2013 by the management of BBMB is just, fair and legal?"**
2. **"If not, whether the action of the management of BBMB is violation of Section 25-F, 25-G, 25-H of the ID Act, 1947?"**
3. **"If yes, what relief(s) the concerned workman is entitled to & from which date?"**

1. During the pendency of the proceedings before this Tribunal the case was fixed for filing claim statement by Workman as well as for appearance of Workman but none is responding on behalf of workman. It is submitted by the Ld. Counsel for the management that workman is not turning up since long and prayed for dismissal of the present claim petition.

2. Perused the file and it is found that the submissions made by the Ld. Counsel for management is true. Several opportunities have already been given to the workman for filing claim statement as well as for appearance but of no use. Which denotes that the workman is not interested in adjudication of the matter on merits as such, this Tribunal is left with no choice except to pass a 'No Claim Award'. Accordingly, no claim award is passed in the present case for the non-prosecution of workman. File after completion be consigned in the record room.

3. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

B.K. GAUTAM, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1103.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आंध्र प्रदेश ग्रामीण विकास बैंक के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (1/2019) प्रकाशित करती है।

[सं. एल-12025/01/2025-आईआर(बी-I)-68]

सलोनी, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1103.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 1/2019*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*

Hyderabad **as shown in the Annexure, in the industrial dispute between the management of Andhra Pradesh Gramimeena Vikasa Bank and their workmen.**

[No. L-12025/01/2025– IR (B-I)-68]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 11th day of June, 2025

INDUSTRIAL DISPUTE LCID No. 1/2019

Between:

Amboju Krishna

Casual worker of Andhra Pradesh Grameena Vikasa Bank

R/o 2-42, Shivaji Nagar, Choutuppal

Yadadri Bhongiri District – 508252 ..….Petitioner

AND

Chairamn / General Manager. … Respondents

Andhra Pradesh Grameena Vikasa Bank

Door No 2-5-8/1, Ram Nagar,

Hanmakonda - 506001

Appearances:

For the Petitioner : D Sunil Kumar, Advocate

For the Respondent: Ms V Uma Devi, Advocate

AWARD

The present application has been filed by the petitioner under section 2(A)(2) of ID Act, 1947 with a prayer to pass appropriate orders by declaring the retrenchment of services of petitioner by respondent from 31-12-2017 is not in accordance with provisions of ID Act 1947 and amounts to unfair labour practice and direct the respondent to reinstate the petitioner with full back wages, continuity of service with regular pay scale, regularization, ancillary benefits from the date of appointment.

2. The application is numbered in this Tribunal as LCI.D. No. 1 of 2019 and notices were issued to the parties concerned.

3. Matter placed today in the special drive for disposal of cases. The respondent has filed a memo with the averment that the petitioner Shri Amboju Krishna has been regularized with ID No 37562 and posted at Choutuppal-6275 Branch of respondent and prayed to close the main case as the dispute is already settled amicably under the ID Act by the parties to the dispute. The counsel for petitioner acknowledged the memo filed by the respondent and confirmed the averments of the memo.

4. Perused the record. In view of memo filed by respondent and acknowledgement of counsel for petitioner, the present dispute filed under section 2(A)(2) of ID Act is closed as withdrawn.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, Lower Division Clerk , corrected by me on this the 11th day of June, 2025.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 जून, 2025

का.आ. 1104.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आंध्र प्रदेश ग्रामीण विकास बैंक के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (2/2019) प्रकाशित करती है।

[सं. एल-12025/01/2025-आईआर(बी-I)-69]

सलोनी, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1104.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 2/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Andhra Pradesh Gramimeena Vikasa Bank and their workmen.

[No. L-12025/01/2025– IR (B-I)-69]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 11th day of June, 2025

INDUSTRIAL DISPUTE LCID No. 2/2019

Between:

Dasari Anjaneyulu S/o Laxmaiah

Casual worker of Andhra Pradesh Grameena Vikasa Bank

R/o 5-108/1, Prasanth Nagar,

Yadadri Bhongiri District – 508115 ..….Petitioner

AND

Chairamn / General Manager. … Respondents

Andhra Pradesh Grameena Vikasa Bank

Door No 2-5-8/1, Ram Nagar,

Hanmakonda - 506001

Appearances:

For the Petitioner : D Sunil Kumar, Advocate

For the Respondent: Ms V Uma Devi, Advocate

AWARD

The present application has been filed by the petitioner under section 2(A)(2) of ID Act, 1947 with a prayer to pass appropriate orders by declaring the retrenchment of services of petitioner by respondent from 31-12-2017 is not in accordance with provisions of ID Act 1947 and amounts to unfair labour practice and direct the respondent to

reinstate the petitioner with full back wages, continuity of service with regular pay scale, regularization, ancillary benefits from the date of appointment.

2. The application is numbered in this Tribunal as LCI.D. No. 2 of 2019 and notices were issued to the parties concerned.

3. Matter placed today in the special drive for disposal of cases. The respondent has filed a memo with the averment that the petitioner Shri Dasari Anjaneyulu has been regularized with ID No 37526 and posted at Kondamadugu-6284 Branch of respondent and prayed to close the main case as the dispute is already settled amicably under the ID Act by the parties to the dispute. The counsel for petitioner acknowledged the memo filed by the respondent and confirmed the averments of the memo.

4. Perused the record. In view of memo filed by respondent and acknowledgement of counsel for petitioner, the present dispute filed under section 2(A)(2) of ID Act is closed as withdrawn.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, Lower Division Clerk , corrected by me on this the 11th day of June, 2025.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 जून, 2025

का.आ. 1105.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आंध्र प्रदेश ग्रामीण विकास बैंक के प्रबंधतत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **हैदराबाद** के पंचाट (3/2019) प्रकाशित करती है।

[सं. एल-12025/01/2025-आईआर(बी-I)-70]

सलोनी, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1105.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 3/2019) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Hyderabad* as shown in the Annexure, in the industrial dispute between the management of Andhra Pradesh Gramimeena Vikasa Bank and their workmen.

[No. L-12025/01/2025– IR (B-I)-70]

SALONI, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 11th day of June, 2025

INDUSTRIAL DISPUTE LCID No. 3/2019

Between:

Punna Ramesh S/o Parvatalu

Casual worker of Andhra Pradesh Grameena Vikasa Bank

R/o 2-119/1, Ram Nagar,

Yadadri Bhongiri District – 508114 ..….Petitioner

AND

Chairamn / General Manager.

Andhra Pradesh Grameena Vikasa Bank

Door No 2-5-8/1, Ram Nagar,

Hanmakonda – 506001 … Respondents

Appearances:

For the Petitioner : D Sunil Kumar, Advocate

For the Respondent: Ms V Uma Devi, Advocate

AWARD

The present application has been filed by the petitioner under section 2(A)(2) of ID Act, 1947 with a prayer to pass appropriate orders by declaring the retrenchment of services of petitioner by respondent from 31-12-2017 is not in accordance with provisions of ID Act 1947 and amounts to unfair labour practice and direct the respondent to reinstate the petitioner with full back wages, continuity of service with regular pay scale, regularization, ancillary benefits from the date of appointment.

2. The application is numbered in this Tribunal as LCI.D. No. 3 of 2019 and notices were issued to the parties concerned.

3. Matter placed today in the special drive for disposal of cases. The respondent has filed a memo with the averment that the petitioner Shri Punna Ramesh has been regularized with ID No 37724 and posted at RBO Bhongir-9013 Branch of respondent and prayed to close the main case as the dispute is already settled amicably under the ID Act by the parties to the dispute. The counsel for petitioner acknowledged the memo filed by the respondent and confirmed the averments of the memo.

4. Perused the record. In view of memo filed by respondent and acknowledgement of counsel for petitioner, the present dispute filed under section 2(A)(2) of ID Act is closed as withdrawn.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, Lower Division Clerk , corrected by me on this the 11th day of June, 2025.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 जून, 2025

का.आ. 1106.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह – श्रम न्यायालय नंबर** 2, चंडीगढ़ के पंचाट **(संदर्भ संख्या 49/2020)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आईआर(सी.एम- II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1106.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 49/2020*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19*/06/2025.***

[No. L-22013/01/2025– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Mr. Kamal Kant, Presiding Officer.

ID No. 49/2020

Registered on:- 07.09.2020

1. Smt. Gita Devi Wd/o Late Sh. Nand Lal
2. Yashwant Singh S/o Late Sh. Nand Lal
3. Sher Singh S/o Late Sh. Nand Lal

All R/o Village Dagrahan, PO Zakatkhana, Tehsil Sri Naina Deviji, Distt. Bilaspur, Himachal Pradesh.

…….....Applicants

Versus

1. The Chairman, Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh -160019.
2. The Chief Engineer, Bhakra Beas Management Board, BSL Project Sundernagar, Distt. Mandi, (HP).

…..Respondents

Present: Mr. S C Gupta, AR for applicant.

Mr. Naveen Singla, Law Officer for the respondent no.1 & 2.

AWARD

Passed on:- 01.05.2025

Central Government vide Notification No.ID-8(2)2020/B-IV/CHD., dated 14.08.2020, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of management of Bhakra Beas Management Board in terminating services of Sh. Nand Lal workman is illegal and unjustified. If so, to what relief he (legal heirs) are entitled to?"

1. The brief facts related to the case are that the applicants are legal heirs of Sh. Nand Lal (deceased workman), who was engaged on 09.09.1971 for the construction of the Beas Sutluj Link Project {hereinafter called as BSL(P)} and discharged from there on 10.11.1975 and again engaged on 26.11.1975 in the same division. The said project remained initially under the Management of Beas Control Board, which was constituted on 10.02.1961 and after enactment of Punjab Re-Organization Act, 1966 (hereinafter called "Re-Organization Act") Beas Control Board was renamed as Beas Construction Board (hereinafter called "BCB") and also Bhakra Management Board, which was established w.e.f. 01.10.1967 and later on it was renamed as Bhakra Beas Management Board (hereinafter called as BBMB), which is working as such w.e.f. 15.05.1976. The workman of this project was considered as the employees of the Central Government by the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and others versus Union of India and Others AIR 1980 SC 115***. The management made illegal retrenchment of the employees in phases and the deceased workman was also retrenched along with them. The deceased workman had completed 240 days in every calendar year and was not interrupted till his retrenchment and the retrenchment is illegal and in violation of Section 25F, 25H, Rule 77 and 78 of the Act. The deceased workman was also retrenched by the employer on 17.09.1977 and discharge certificate was issued by the office of Sub Divisional Officer, BBMB Sundernagar in accordance with provision of the Act. After the retrenchment of the workman, management appointed fresh workmen/employees, violating Section 25-H of the I.D. Act. The BSL (P) is an industrial establishment as per Section 25(L) of the Act. This action of the management also violates the directions of Hon'ble Supreme Court as mentioned in Para 40 of the case of ***Jaswant Singh (supra)***. No notice as per Rule 78 of the Industrial Disputes (Central) Rules, 1957, which is statutory requirement, has been issued to the workman. Not only this no seniority list as per law was prepared and principle of last come first go was violated by the management at the time of retrenchment of the workman, which also violates Section 25G of the Act. It is maintained that the deceased workman after his retrenchment remained ill and could not raised the dispute during the period but raised his voice for re-

employment through the union and ultimately, he died on 28.01.2017. The deceased workman after his retrenchment did not remain in the gain full employed till his death.

2. It is also maintained that similar matters have been decided by the Hon'ble Punjab & Haryana High Court vide its judgments dated 07.05.2007 in CWP Nos.3061-64 of 2006, 3069 of 2006,3073-3083 of 2006,3085-3087 of 2006,3090-3137 of 2006 and 3148-3149 of 2006. These judgments of the Hon'ble High Court have been upheld by the Hon'ble Apex Court in case titled ***Bhakra Beas Management Board Vs. Biri Singh and others etc. in SLP Nos. 16939-17007 of 2007*** vide of orders dated 08.07.2014. Vide order dated 08.07.2014 the Hon'ble Supreme Court has ordered that the matter to be taken up before the Industrial Tribunal. Many of the workmen have already taken up the matters before the learned Central Govt. Industrial Tribunal-cum-Labour Court No.1 and 2 Chandigarh. It may also not be out of context to mention here that the present matter is covered by the Judgment of the Hon'ble Supreme Court in the case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar, JT 2014 (10) SC 168***. It is therefore, prayed that the claim petition of the applicant may kindly be allowed and retrenchment/discharge order dated 17.09.1977 of the deceased workman be held illegal and the workman be deemed to be as in continuous service from the date of his termination till the age of his superannuation or date of death whichever is earlier and his LRs be granted all consequential benefits.

3. Respondent no.1 & 2 filed written statement, alleging therein that the applicants are legal heirs of the deceased workman and their application is not maintainable under the provisions of the Act and the applicants raised the present dispute at a belated stage after 40 years without furnishing any plausible reason for extraordinary delay. The deceased workman was Ex-work charged employee of Beas Construction Board (BCB), which was constituted under Section 80(1) of the Re-organization Act. The deceased workman Sh. Nand Lal was retrenched after completion/part completion of the works of BCB in accordance with the provisions of the Act. The deceased workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Punjab Govt. Irrigation Department prior to the re-organization of the erstwhile State of Punjab on 01.11.1966. After re-organization the work of BSL(P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organization Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board (hereinafter called as BMB) constituted under Section 79(1) of the Re-organization Act. It is further stated under Section 80(5) of the Re-organization Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organization Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. Even work-charged employees of the BCB had filed a writ petition in the Hon'ble Supreme Court of India, titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440,*** in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the applicant is hopelessly time barred and the applicant being legal heirs has no legal right to file claim petition under the Act. It is prayed that claim be dismiss.

Evidence of parties:

4. Parties were given opportunity to lead evidence.

5. Applicant No.2 Mr. Yashwant Singh S/o Late Sh. Nand Lal has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the law officer of management. He also tendered document Ex.WW1/1 and Ex.WW1/2 (Discharge Certificates) and Ex.WW1/3 Death Certificate of workman. AR for workman closed the evidence on behalf of workman on 09.07.2024.

6. The management has filed affidavit of Sh. Dinesh Kumar S/o Hawa Singh, Executive Engineer, Balancing Reservoir Slit Clearance and Plant Design Division, BBMB Sundernagar, Distt. Mandi, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned AR of workman. He tendered into evidence copy of service record of workman Ex.MW1/B and closed the evidence on behalf of management on 20.11.2024 and the case is fixed for arguments.

Submissions of Applicants:

7. While arguing the case, ld. AR for the applicants contended that in this case, claim has been filed by the LRs of deceased workman Sh. Nand Lal, who expired on 28.01.2017 and as per law laid down by Hon'ble Supreme Court and various Hon'ble High Courts, claim can be filed even after the death of the applicant. To support this view, he placed reliance upon the in case law titled as ***Anjaliamma and others versus Labour Court-III at Hyderabad rep. by its Presiding Officer, Hyderabad and another, 1995(6) SLR 680***, ***Bharathamma and others versus The Labour Court and another (WP No.11342 of 1994) 1995(2) Andh. LD 472*** and ***Rameshwar Manjhi versus Management of Sangaramgarh Colliery (1994 AIR 1176, 1994 SCC (1) 292.*** He further contended that in this case deceased workman was discharged on 17.09.1977 due to reduction in strength and he was issued discharge certificate by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the Act which provides re-employment of

retrenched deceased workman. He further has drawn the attention of the Court towards the statement of wife of deceased workman. He was required to be adjust in view of Section 25-H of the Act by the management. He was not given any employment. While arguing further, learned AR for the applicants referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957 (hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workmen and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. He also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the Act.

Submissions of management:-

8. While arguing the case, learned Law Officer for the management contended that initially Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Deceased workman Sh. Nand Lal was employed as work charged employee on 09.09.1971 and was retrenched on 17.09.1977. All similar work charged employees including the present workman were engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and another Vs. Union of India &Anr., 1979 SCC 440*** has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India. AR for management further argued that as per Rule 4 of the Industrial Dispute (Central) Rules 1957, the application and the statement can be signed by the workman himself or by any officer of the trade union of which he is member or by another workmen in the same establishment duly authorized by him in his behalf and since in this case, application has not been moved by the applicants, the claim is not maintainable and is liable to be dismissed.

9. So far as the claim of the applicants regarding re-employment after retrenchment on 17.09.1977 is concerned, deceased workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial peace and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

> ***It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."***

10. Because the present workman had not completed 10 years of service so he is not entitled for re-employment. Learned AR for respondents further contended that in this case deceased workman was retrenched on 17.09.1977 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his claim is hopelessly time barred as the legal heirs have filed the present claim petition in the year 2020. To support this view he has placed reliance in the case titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682,*** wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 40 years. He also relied upon the case titled as ***Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018***, where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the Act does not prescribed time limit for referring such dispute. AR for respondents also relied upon the judgment passed by Hon'ble High Court of Himachal Pradesh Shimla in ***CWP No.3057 of 2023 titled as Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others*** and judgment passed by Hon'ble High Court, Madras in ***WP Nos.5556 of 2021 titled as Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others,*** wherein it is stated that as per Section 2-A(3) of the Act, the order should be challenged within 3 years from the date of

dismissal, discharge, retrenchment or otherwise termination of service as specified un sub-section (1) of Section 2-A. In the present case workman was engaged on 09.09.1971 and was discharged on 17.09.1977 and the legal heir have sought re-employment after 40 years which was held to be highly time barred. Thus, he contended that claim of applicants is time barred. Deceased workman was discharged on 17.09.1977 and thereafter his legal heirs filed present claim before the Labour Conciliation Officer.

Findings:

11. I have given due consideration to the arguments advanced by the learned AR for the applicants and also for the respondents.

12. So far as this contention of the AR for the respondents that in this case, application is not maintainable by LRs concerned, the same is devoid of merit as Hon'ble High Court of Andhra Pradesh in case law titled as ***Anjaliamma and others versus Labour Court-III at Hyderabad rep. by its Presiding Officer, Hyderabad and another (supra)*** and ***Bharathamma and others versus The Labour Court and another (supra)*** has categorically held that in case workman had died, then even LRs of the deceased can move an application in respect of the monetary benefits. The relevant para 14 & 15 of ***Anjaliamma and others versus Labour Court-III at Hyderabad rep. by its Presiding Officer, Hyderabad and another (supra)*** are produced as under:

> *14. As already pointed out supra the question whether the legal heirs/representatives of a deceased-workman can raise an industrial dispute directly under Section 2-A(2) of the Act did not arise for consideration in any of the decisions of the High Courts or in Rameshwar Manjhi's case (supra). But the Supreme Court in para 13 in the context of an industrial dispute filed under Section 2-A of the Act has laid down the law that in the event of death of the workman during pendency of the proceedings the legal representatives or heirs can continue the proceedings. If according to the Apex Court if a pending proceedings can be continued by the legal heirs/representatives of the deceased workman after the death of the workman during the pendency of the proceedings, there is no good reason to hold that such legal representatives/heirs are incompetent to institute the dispute before the Industrial Court after the death of a workman have locus standi to continue an industrial dispute instituted by such workman in a Labour Court in law, then they are also competent to institute such workman. The observation of the Supreme Court in paras 11 and 12 in general and in para 13 in particular read with the views expressed by the Calcutta (sic. Kerala) High Court in Gwalior Rayon's case (supra) and that of the Gujarat High Court in Bank of Baroda's case (supra) which views are affirmed by the Apex Court in Rameshwar Manjhi's case clearly go to show that legal heirs/representatives of a deceased workman can institute industrial dispute before the jurisdictional Labour Court after the death of such workman.*
>
> *15. This question may be considered from another angle as well. As pointed out supra, the Labour Court in exercise of its discretionary power under Section 11-A of the Act can grant reliefs of reinstatement or lumpsum compensation in lieu of reinstatement, back wages, continuity of services or any other appropriate relief, pecuniary or otherwise having regard to the facts and circumstances of each case. In the present case if the workman were to alive he would have instituted the industrial dispute in the Labour Court and there was absolutely no legal impediment for him to do so and if the Industrial Court were to uphold the claim of the workman it would have granted the relief of reinstatement or lumpsum compensation in lieu of reinstatement, back wages and other reliefs. If that is so what the deceased workman himself would have been awarded by the Labour Court except the relief of reinstatement had he be survived, should be considered to be a part of his estate. The learned Authors Clerk & Lindsell on Torts have pointed out that since it is the deceased's own cause of action which survives for the benefit of his estate, the estate should recover such damages as the deceased himself would have been awarded had he survived. Therefore it should be held that with the death of the workman the cause of action to seek reliefs contemplated under the Act from the Labour Court does not die with him in totality and the causes of action to recover lumpsum compensation in lieu of reinstatement and back-wages do survive for the benefit of his estate. Recognizing this position and in order to resolve the conflict of opinions existed earlier among several High Courts, the Legislature inserted sub-section (8) in Section 10 by Amending Act 46 of 1982 and after the amendment proceedings before any adjudicatory authority in relation to an industrial dispute shall not lapse merely be reason of the death of any of the parties to the dispute being a workman and the adjudicator is enjoined to complete such proceedings and submit his award to appropriate Government. There cannot be any dispute that the petitioners-legal heirs of the deceased workman are entitled to the estate left behind the workman. This is so having regard to the provisions of Section 306 of the Indian Succession Act and the observation of the Division Bench of the Gujarat High Court in the case of Bank of Baroda extracted above and approved by the Apex Court. In that view of the matter I am in respectful agreement with the view taken by may learned brother S. Dasaradha Rama Reddy, J.* ***in Bharathamma & Others v. The Labour Court (supra)*** *and it does not require any reconsideration.*

Thus, application on behalf of LRs is maintainable and arguments advanced by the AR for respondents are not maintainable.

13. The management relied upon mainly in this case on the case titled as ***Jaswant Singh and another (supra),*** which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of

petitioners was employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad-hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the Bhakra Nangal Scheme.

14. In respect of these employees, it was held as follow:-

"To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi- permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes."

15. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

"41.A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.

42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.

43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the pro- visions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment9 and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.

44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.

45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. Jatin Chakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."

16. Thus, from the above observation of Hon'ble Supreme Court, it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

17. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi under Section 12 of the Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceeding an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

18. So far as the settlement executed between the work charged employees and respondents through unions, the same has not been produced by the respondents despite opportunity was given to file the same. Thus, adverse interference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as ***2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another*** wherein it has been held **"that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party".** In this case also as per order dated 03.04.2025 of this Tribunal, respondents were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. On 29.04.2025, Mr. Naveen Singla, Law Officer appeared on behalf of respondent nos.1 & 2 and stated that aforesaid settlement is not traceable. It is also added here that in similar decided matters, wherein number of opportunities were given to the respondents to produce the said settlement, however, despite of availing specific directions, the said policy was not produced. Those cases are ***ID No.247/2005 titled as Dharam Singh Versus BBMB and another, ID No.127/2005 titled as Narpat Ram versus Bhakra Beas Management Board and another*** and other similar matters. As such adverse inference can be drawn against the management in view of the above law.

19. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follow:-

"Regulation of Services of the workcharged employees.

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the

instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be stuck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I fell that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear In mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board has by and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee. Even Himachal Pradesh Government generally followed the Punjab policy. The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government. The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well at the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect. Moreover financial implications and other complications are involved.

In such circumstances stated above, would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture. Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt, what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or

work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

20. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

21. It is specific case of the applicants that respondents also appointed fresh workmen, but preference was not given to her late husband during his lifetime, which is in clear violation of section 25-H of the Act. In this regard, it is pointed out that no pointed cross examination has been done by the law officer of the respondents, meaning thereby, the respondents have admitted that they have engaged fresh workmen but preference was not given to the deceased workman during his life time.

22. Admittedly, in this case, no effort was made by the respondents to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

77. Maintenance of seniority list of workmen. *-The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*

78. Re-employment of retrenched workmen. - *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefore, to the address given by him at the time of retrenchment or at any time thereafter:*

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:

Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.

23. Moreover, a perusal of cross examination of Mr. Dinesh Kumar (MW1) reveals that the deceased workman was never called for re-appointment at any point of time and as per aforesaid Rule 77 & 78, the workman was required to be given notice. Moreover, no explanation has been given that after the retrenchment of the deceased workman, other persons were not recruited by the management, which is in violation of Section 25-H of the Act.

24. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employ them. However, certainly in respect of workcharged employees present respondents were directed by the Hon'ble Supreme Court in Judgment of ***Jaswant Singh (Supra)*** to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employe them. Thus, it does not lie in the mouth of present respondents that no relief can be granted against present respondents as deceased husband of applicant was not their employee.

A. So far as this argument of Ld. AR of the respondents that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment.

Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"

Nothing has come on record that above directions were complied with.

25. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

26. As regard, this contention of learned AR of respondents that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the BBMB. Moreover, as per respondents Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in ***Jaswant Singh case (supra)*** in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the respondents that BCB and BBMB are two separate entities is devoid of merit.

27. So far this argument of AR for the respondents that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2020. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of ***Jaswant Singh case (Supra).*** Moreover, limitation was added in Section 2A of the Act in the year 2010 (15.09.2010) and deceased workman was dismissed from service on 17.09.1977 and AR for respondents has failed to bring this fact that the aforesaid provision was retrospective.

28. It is added here that in the present case, the reference was made under clause (d) of sub-section (1) of Section 10 of the Act. It is not case filed under Section 2-A of the Act. Hon'ble Supreme Court of India in case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)*** has held as follow:

> *"42. It is an undisputed fact that the dispute was raised by the workman after he was acquitted in the criminal case which was initiated at the instance of the respondent. Raising the industrial dispute belatedly and getting the same referred from the State Government to the Labour Court is for justifiable reason and the same is supported by law laid down by this Court in Calcutta Dock Labour Board (supra). Even assuming for the sake of the argument that there was a certain delay and latches on the part of the workman in raising the industrial dispute and getting the same referenced for adjudication, the Labour Court is statutorily duty bound to answer the points of dispute referred to it by adjudicating the same on merits of the case and it ought to have moulded the relief appropriately in favour of the workman. That has not been done at all by the Labour Court. Both the learned single Judge as well as the Division Bench of the High Court in its Civil Writ Petition and the Letters Patent Appeal have failed to consider this important aspect of the matter."*

Even Hon'ble Supreme Court in para no.31 of the said judgment has held as follow:

> *"31. The rejection of the reference by the Labour Court by answering the additional issue no. 2 regarding the delay latches and limitation without adjudicating the points of dispute referred to it on the merits amounts to failure to exercise its statutory power under Section 11A of the Act. Therefore, we have to interfere with the impugned award of the Labour Court and the judgment & order of the High Court as it has erroneously confirmed the award of the Labour Court without examining the relevant provisions of the Act and decisions of this Court referred to supra on the relevant issue regarding the limitation."*

29. Hon'ble Supreme Court has also referred in the said case decision of ***Ajaib Singh v. The Sirhind Co-Operative Marketing Cum- Processing Service Society Limited & Anr***.(***AIR 1999 Supreme Court 1351***), wherein, Court has opined that relief cannot be denied to the workman merely on the ground of delay, stating that:-

> *"10. It follows, therefore, that the provisions of Article 137 of the Schedule to Limitation Act, 1963 are not*

applicable to the proceedings under the act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the labour court can be generally questioned on the ground of delay alone. Even in a case where the delay in shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/ termination or dismissal.

30. In view of the aforesaid observations of the Hon'ble Supreme Court, the delay was not thus fatal to the case of the appellant. It is also added here that so far as the case ***Ram Chand Vs. The BBMB and another (supra), Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others (supra)*** and ***Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others (supra)*** referred by the AR for respondents are concerned, those cases were filed by the workman under Section 2-A of the Act, which specifically provides limitation of 3 years from the date of dismissal or retrenchment. Section 10(1) of the Act specifically provide that appropriate government may refer any industrial dispute at any time, whereas the same is conspicuously absent in sub-section (3) of Section 2A, which could clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-section (3) of Section 2A. Thus, period of limitation cannot be considered. So far as the case law titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal (supra),*** the same is not attracted to the facts and circumstance of the present case in view of the judgment ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)***, whose relevant paras are reproduced above. Therefore, it cannot be said that case of applicant was beyond limitation.

31. However, it is added that applicant no.2 i.e. Sh. Yashwant Singh, son of deceased workman in his affidavit nowhere stated that retrenchment compensation was not paid to his father. In his cross examination, he has stated that he is not aware that at the time of retrenchment, his father was given notice. He is also not aware that his father was paid any compensation at the time of retrenchment. Remaining silent in his affidavit that his father was not paid any retrenchment compensation meaning thereby that his father was paid retrenchment compensation by the respondents. Moreover, in written statement, stand of the respondents is that the deceased workman was paid all terminal benefits i.e. retrenchment compensation, gratuity and ex-gratia etc. on account of retrenchment from BCB as per provisions of the Act and other relevant laws. Thus, it shall be presumed that deceased workman was given retrenchment compensation. Even a perusal of service record (MW1/B) of deceased workman reveals that he was paid gratuity etc. So, there is no breach of Section 25 F of the Act.

32. Further, there was non-compliance of ***Jaswant Singh Case (Supra)***, Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employe the workman. The only remedy left is to compensate the workman in term of money.

33. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

i. Workcharged employee who has completed 5 years of service or more shall be entitled for Rs.50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.

ii. Workcharged employee who has completed less than 5 years but more than 1 year would be entitled Rs.25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.

iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

34. Deceased workman Sh. Nand Lal was employed on 09.09.1971 and was retrenched on 17.09.1977 as mentioned in Discharge Certificate (Ex.WW1/1) issued by Sub Divisional Officer, BBMB Sundernagar, and has worked for about 6 years (more than 5 years), so the applicants are entitled for Rs.50,000/- along with interest @9% per annum from the date of moving the application till its realization.

35. The reference is answered accordingly and stands disposed off.

36. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1107.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह – श्रम न्यायालय नंबर** 2, चंडीगढ़ के पंचाट **(संदर्भ संख्या 83/2018)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-23012/108/2018-आईआर(सी.एम- II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1107.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 83/2018*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19*/06/2025***

[No. L-23012/108/2018– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.

Present: Mr. Kamal Kant, Presiding Officer.

ID No. 83/2018

Registered on:- 11.12.2018

Tek Singh Son of Shri Gagi Ram, Resident of Village Burna, PO Thachi, Tehsil Baliochowki, Distt. Mandi (HP) 175106.

…….....Applicant

Versus

1. The Chairman, Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh-160019.

2. The Chief Engineer, Bhakra Beas Management Board, BSL Project, Sundernagar-175038.

…..Respondents/Managements

Present:- Mr. S C Gupta, AR for workman.

Sh. Ravinder Rana (Law Officer), AR for Management

AWARD

Passed on:- 01.04.2025

Central Government vide Notification No.L-23012/108/2018(IR(CM-II)) dated 19.11.2018 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of management of BBMB in not accepting the demand of Sh. Tek Singh S/o Sh. Gagi Ram for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?"**

1. The brief facts, related to the case are that the construction of Beas Sutluj Link Project {hereinafter called as BSL(P)} started in the year 1962 under Beas Control Board, which was constituted on 10.02.1961 with its headquarter at Sundernagar. After passing of Pb. Re-Organization Act, 1966 (hereinafter called "Re-Organization Act") Beas Control Board was replaced by Beas Construction Board (hereinafter called "BCB"). The workman was employed by BSL Project, Sundernagar on 24.11.1973. The workman who was employed in Beas Project(Unit-1) become the employee of Bhakra Beas Management Board(hereinafter called as BBMB) in pursuance of proviso (1) of Section 80(3) and Section 80(5) of Re-organization Act and the workman become the employee of the Centre Government under the management of B.B.M.B. from 15.05.1976. The workmen of this project were considered as

the employees of the Central Government by the Hon'ble Supreme Court in case titled ***as Jaswant Singh and others Versus Union of India and others (AIR 1980 Supreme Court page 115)*** . The workman has completed 240 days in every calendar year and was not interrupted till his retrenchment. The employer made a bulk retrenchment of project employees in the year 1977 and 1978 and also in stages thereafter till 1984. The workman was also retrenched by the employer on 29.09.1977 and copy of discharge certificate was issued by the office of Sub Divisional Officer, BBMB Sundernagar in accordance with provision of the Act. After the retrenchment of the workman, thousands of other persons were appointed secretly by employer, violating Section 25-G, Section 25-H, Rule 77 & 78 of the I.D. Act, 1947. The BSL Project is an industrial establishment as per Section 25 L of the Act. This action of the management also violates the directions of Hon'ble Supreme Court as mentioned in Para 40 of the case of ***Jaswant Singh (supra)***. No notice as per Rule 78 of the Industrial Disputes (Central) Rules, 1957, which is statutory requirement, has been issued to the workman. Not only this no seniority list as per law was prepared and principle of last come first go was violated by the management at the time of retrenchment of the workman, which also violates Section 25G of the Act.

2. It is also maintained that similar matters have been decided by the Hon'ble Punjab & Haryana High Court vide its judgments dated 7.5.2007 in CWP Nos.3061-64 of 2006, 3069 of 2006,3073-3083 of 2006,3085-3087 of 2006,3090-3137 of 2006 and 3148-3149 of 2006. These judgments of the Hon'ble High Court have been upheld by the Hon'ble Apex Court in the case titled ***Bhakra Beas Management Board Vs. Biri Singh and others etc. in SLP Nos. 16939-17007 of 2007*** vide of orders dated 8.7.2014. Vide order dated 8.7.2014 the Hon'ble Supreme Court has ordered that the matter to be taken up before the Industrial Tribunal. Many of the workmen have already taken up the matters before the learned Central Govt. Industrial Tribunal-cum-Labour Court No.1 and 2 Chandigarh. It may also not be out of context to mention here that the present matter is covered by the Judgment of the Hon'ble Supreme Court in the case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar reported in JT 2014 (10) SC 168***. It is therefore, prayed that the claim petition of the workman may kindly be allowed and retrenchment/discharge order dated 29.09.1977 of the workman be held illegal since workman has already retired in January 2011, so he may be released consequential benefits till date.

3. Management filed written statement, alleging therein that workman is Ex-work charged employee of Beas Construction Board, which was constituted under Section 80(1) of the Re-organization Act. The workman was retrenched after completion of the work of BCB in accordance with the provisions of the Act and settlement in this behalf. The workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Irrigation Department Punjab Govt. prior to the re-organization of the erstwhile State of Punjab on 01.11.1966. After re-organization the work of BSL(P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organization Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board(hereinafter called as BMB) constituted under Section 79(1) of the Re-organization Act. It is further stated under Section 80(5) of the Re-organization Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organization Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. Even work-charged employees of the BCB had filed a petition in the Hon'ble Supreme Court of India, titled as ***Jaswant Singh and another Vs. Union of India &Anr., 1979 SCC 440,*** in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the workman is hopelessly time barred and the workman has no legal enforceable right to claim employment in BBMB. It is prayed that claim be dismiss.

4. A rejoinder was also filed by workman contravening the facts taken in written statement as reiterating the facts as stated in claim petition.

5. Parties were given opportunity to lead evidence.

Evidence of workman:

6. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the law officer of management. He also tendered document Ex.WW1/1 Discharge Certificate and AR for workman closed evidence on 06.10.2023.

Evidence of respondents:-

7. The respondents have filed affidavit of Er. Dinesh Kumar son of Sh. Hawa Singh, Executive Engineer, Balancing Reservoir Slit Clearance & Plant Design Division, BBMB Sundernagar, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned counsel of workman and management evidence was closed on 16.10.2024 and the matter was fixed for arguments.

Submissions of Management:

8. While arguing the case, learned Law Officer for the respondents contended that initially Beas Control Board

was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Present workman was employed as work charged employee on 24.11.1973 and was retrenched on 29.09.1977. All similar work charged employees including the present workman were engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440*** has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India.

9. So far as the claim of the workman regarding re-employment after retrenchment on 29.09.1977 is concerned, workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial peace and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

> ***"It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."***

10. Because the present workman had not completed 10 years of service so he is not entitled for re-employment. Learned representative for the management further contended that in this case workman was retrenched on 29.09.1977 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his claim is hopelessly time barred as he has filed the present claim petition in the year 2018**.** To support this view he has placed reliance in the case titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682,*** wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 42 years. He also relied upon the case titled as ***Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018,***where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the Act does not prescribed time limit for referring such dispute. AR for respondents also relied upon the judgment passed by Hon'ble High Court of Himachal Pradesh Shimla in ***CWP No.3057 of 2023 titled as Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others*** and judgment passed by Hon'ble High Court, Madras in ***WP Nos.5556 of 2021 titled as Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others,*** wherein it is stated that as per Section 2-A(3) of the Act, the order should be challenged within 3 years from the date of dismissal, discharge, retrenchment or otherwise termination of service as specified un sub-section (1) of Section 2-A. In the present case workman was engaged on 24.11.1973 and was discharged on 29.09.1977 and he has sought re-employment after 42 years which was held to be highly time barred. Thus, he contended that claim of workman is time barred. Workman was discharged on 29.09.1977 and thereafter he filed present claim before the Labour Conciliation Officer.

Submissions of applicant:-

11. While arguing the case, learned AR for the workman contended that in this case workman was discharged on 29.09.1977 illegally and he was issued discharge certificate WW1/1 by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the Act which provides re-employment of retrenched workman. He further has drawn the attention of the Court towards the statement of the workman. He was required to be adjust in view of Section 25-G of the Act by the management. He was not given any employment. While arguing further, learned AR for the workman referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957 (hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workman and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. She also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no

limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the Act.

Findings:-

12. I have given due consideration to the arguments advanced by the learned AR for the workman and also for the respondents.

13. The respondents relied upon mainly in this case on the case titled as ***Jaswant Singh and another (supra),*** which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners was employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the Bhakra Nangal Scheme.

14. In respect of these employees, it was held as follow:-

> ***"To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi- permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes."***

15. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

> ***"41.A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.***
>
> ***42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.***
>
> ***43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the pro- visions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.***
>
> ***44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.***
>
> ***45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. Jatin***

Chakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."

16. Thus, from the above observation of Supreme Court it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

17. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi under Section 12 of the Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceedings an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

18. So far as the settlement executed between the work charged employees and management through unions, the same has not been produced by the management despite opportunity was given to file the same. Thus, adverse interference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as ***2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another*** **wherein it has been** held **"that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party".** In this case also as per order dated 24.02.2025 of this Tribunal, respondents were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. On 13.03.2025, Mr. Ravinder Rana, Law Officer appeared on behalf of respondents and stated that aforesaid settlement is not traceable. It is also added here that in similar decided matters, wherein number of opportunities were given to the respondents to produce the said settlement, however, despite of availing specific directions, the said policy was not produced. Those cases are ***ID No.247/2005 titled as Dharam Singh Versus BBMB and another, ID No.127/2005 titled as Narpat Ram versus Bhakra Beas Management Board and another*** and other similar matters. As such adverse inference can be drawn against the management in view of the above law.

19. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follow:-

"Regulation of Services of the workcharged employees.

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which

they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be stuck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I fell that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear In mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board has by and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee. Even Himachal Pradesh Government generally followed the Punjab policy. The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government. The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well at the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect. Moreover financial implications and other complications are involved.

In such circumstances stated above, would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture. Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt, what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be

employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

20. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

21. It is specific case of the workman that respondents also appointed fresh workmen, but preference was not given to him, which is in clear violation of section 25-H of the Act. In this regard, it is pointed out that no pointed cross examination has been done by the law officer of the respondents, meaning thereby, the respondents have admitted that they have engaged fresh workmen but preference was not given to the workman.

22. Admittedly, in this case, no effort was made by the respondent to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

77. Maintenance of seniority list of workmen. *-The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*

78. Re-employment of retrenched workmen. - *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefore, to the address given by him at the time of retrenchment or at any time thereafter:*

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:

Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.

23. Moreover, a perusal of cross examination of Er. Dinesh Kumar (MW1) reveals that the workman was never called for re-appointment at any point of time and as per aforesaid Rule 77 & 78, the workman was required to be given notice. Moreover, no explanation has been given that after the retrenchment of the workman, other persons were not recruited by the management, which is in violation of Section 25-H of the Act.

24. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employe them. However, certainly in respect of workcharged employees present Respondent was directed by the Hon'ble Supreme Court in Judgment of ***Jaswant Singh (Supra)*** to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employe them. Thus, it does not lie in the mouth of present Respondent that no relief can be granted against present Respondent as petitioners are not

their employees.

A. So far as this argument of Ld. AR of the management that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

> ***"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"***
>
> Nothing has come on record that above directions were complied with.

25. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

26. As regard, this contention of learned AR of management that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the BBMB. Moreover, as per respondent Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in ***Jaswant Singh case (supra)*** in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the management that BCB and BBMB are two separate entities is devoid of merit.

27. So far this argument of Law Officer for the respondent that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2018. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of ***Jaswant Singh case (Supra)***. Moreover, limitation was added in Section 2A of the Act in the year 2010 (15.09.2010) and workman was dismissed from service on 29.09.1977 and AR for respondents failed to brought this fact that the aforesaid provision was retrospective.

28. It is added here that in the present case, the reference was made under clause (d) of sub-section (1) of Section 10 of the Act. It is not case filed under Section 2-A of the Act. Hon'ble Supreme Court of India in case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)*** has held as follow:

> *"42. It is an undisputed fact that the dispute was raised by the workman after he was acquitted in the criminal case which was initiated at the instance of the respondent. Raising the industrial dispute belatedly and getting the same referred from the State Government to the Labour Court is for justifiable reason and the same is supported by law laid down by this Court in Calcutta Dock Labour Board (supra). Even assuming for the sake of the argument that there was a certain delay and latches on the part of the workman in raising the industrial dispute and getting the same referenced for adjudication, the Labour Court is statutorily duty bound to answer the points of dispute referred to it by adjudicating the same on merits of the case and it ought to have moulded the relief appropriately in favour of the workman. That has not been done at all by the Labour Court. Both the learned single Judge as well as the Division Bench of the High Court in its Civil Writ Petition and the Letters Patent Appeal have failed to consider this important aspect of the matter."*

Even Hon'ble Supreme Court in para no.31 of the said judgment has held as follow:

> *"31. The rejection of the reference by the Labour Court by answering the additional issue no. 2 regarding the delay latches and limitation without adjudicating the points of dispute referred to it on the merits amounts to failure to exercise its statutory power under Section 11A of the Act. Therefore, we have to interfere with the impugned award of the Labour Court and the judgment & order of the High Court as it has erroneously confirmed the award of the Labour Court without examining the relevant provisions of the Act and decisions of*

this Court referred to supra on the relevant issue regarding the limitation."

29. Hon'ble Supreme Court has also referred in the said case decision of ***Ajaib Singh v. The Sirhind Co-Operative Marketing Cum- Processing Service Society Limited & Anr***.(***AIR 1999 Supreme Court 1351***), wherein, Court has opined that relief cannot be denied to the workman merely on the ground of delay, stating that:-

"10. It follows, therefore, that the provisions of Article 137 of the Schedule to Limitation Act, 1963 are not applicable to the proceedings under the act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the labour court can be generally questioned on the ground of delay alone. Even in a case where the delay in shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/ termination or dismissal.

30. In view of the aforesaid observations of the Hon'ble Supreme Court, the delay was not thus fettled to the case of the appellant. It is also added here that so far as the case ***Ram Chand Vs. The BBMB and another (supra), Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others (supra)*** and ***Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others (supra)*** referred by the AR for respondents are concerned, those cases were filed by the workman under Section 2-A of the Act, which specifically provides limitation of 3 years from the date of dismissal or retrenchment. Section 10(1) of the Act specifically provide that appropriate government may refer any industrial dispute at any time, whereas the same is conspicuously absent in sub-section (3) of Section 2A, which could clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-section (3) of Section 2A. Thus, period of limitation cannot be considered. So far as the case law titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal (supra),*** the same is not attracted to the facts and circumstance of the present case in view of the judgment ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)***, whose relevant paras are reproduced above. Therefore, it cannot be said that case of applicant was beyond limitation.

31. However, it is added that workman in his cross examination has stated that he was paid Rs.1600/- at the time of retrenchment. Moreover, in written statement, stand of the respondents is that the workman was paid all terminal benefits i.e. retrenchment compensation, gratuity and ex-gratia etc. on account of retrenchment from BCB as per provisions of the Act and other relevant laws. So, there is no breach of Section 25 F of the Act.

32. Further, there was non-compliance of ***Jaswant Singh Case (Supra)***, Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employ the workman. The only remedy left is to compensate the workman in term of money.

33. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

i. Workcharged employee who has completed 5 years of service or more shall be entitled for Rs.50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.

ii. Workcharged employee who has completed less than 5 years but more than 1 year would be entitled Rs.25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.

iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

34. The present work charged workman was employed on 24.11.1973 and was retrenched on 29.09.1977 as mentioned in Discharge Certificate (Ex.WW1/1) issued by Sub Divisional Officer, BBMB Sundernagar, and has worked for 3 years and about 10 months (less than 5 years), so he is entitled of Rs.25,000/- along with interest @9% per annum from the date of moving the application till its realization.

35. The reference is answered accordingly and stands disposed off.

36. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1108.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह - श्रम न्यायालय नंबर 2** चंडीगढ़ के पंचाट **(संदर्भ संख्या 40/2020)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आईआर(सी.एम- II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1108.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 40/2020*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19*/06/2025***.

[No. L-22013/01/2025– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Mr. Kamal Kant, Presiding Officer.

ID No.40/2020

Registered on:- 07.09.2020

1. Smt. Giano Devi Wd/o Late Sh. Balak Ram
2. Mr. Sunil Kumar S/o Late Sh. Balak Ram.
3. Surender Kumar S/o Late Sh. Balak Ram.
4. Vyasa Devi D/o Late Sh. Balak Ram,

All LRs of the deceased workman Sh. Balak Ram, R/o Village Tikker, PO Zakatkhana, Tehsil Sri Naina Deviji, Distt. Bilaspur, Himachal Pradesh.

…….....Applicants

Versus

1. The Chairman, Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, BSL Project/BBMB Sundernagar, Distt. Mandi, (HP)-175038.

…..Respondents/Management

Present: Mr. S C Gupta, AR for workman.

Mr. Ravinder Rana, Law Officer for the respondents.

AWARD

Passed on:- 04.04.2025

Central Government vide Notification No.ID-8(1)2020/B-IV/CHD, dated 14.08.2020, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of management of Bhakra Beas Management Board in terminating services of Late Sh. Balak Ram, workman is illegal and unjustified. If so, to what relief he (legal heirs) are entitled to?"**

1. The brief facts related to the case are that the applicants are legal heirs of Sh. Balak Ram (deceased workman), who was engaged on 18.10.1973 for the construction of the Beas Sutluj Link Project {hereinafter called as BSL(P)}. The said project remained initially under the Management of Beas Control Board, which was constituted on 10.02.1961 and after enactment of Punjab Re-Organization Act, 1966 (hereinafter called "Re-Organization Act") Beas Control Board was renamed as Beas Construction Board (hereinafter called "BCB") and also Bhakra Management Board, which was established w.e.f. 01.10.1967 and later on it was renamed as Bhakra Beas Management Board (hereinafter called as BBMB), which is working as such w.e.f. 15.05.1976. The workman of this project was considered as the employees of the Central Government by the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and others versus Union of India and Others AIR 1980 SC 115***. The management made illegal retrenchment of the employees in phases and the deceased workman was also retrenched along with them. The deceased workman had completed 240 days in every calendar year and was not interrupted till his retrenchment and the retrenchment is illegal and in violation of Section 25F, 25H, Rule 77 and 78 of the Act. The workman was also retrenched by the employer on 15.10.1977 and copy of discharge certificate was issued by the office of Sub

Divisional Officer, BBMB Sundernagar in accordance with provision of the Act. After the retrenchment of the workman, management appointed fresh workmen/employees, violating Section 25-H of the I.D. Act. The BSL (P) is an industrial establishment as per Section 25(L) of the Act. This action of the management also violates the directions of Hon'ble Supreme Court as mentioned in Para 40 of the case of ***Jaswant Singh (supra)***. No notice as per Rule 78 of the Industrial Disputes (Central) Rules, 1957, which is statutory requirement, has been issued to the workman. Not only this no seniority list as per law was prepared and principle of last come first go was violated by the management at the time of retrenchment of the workman, which also violates Section 25G of the Act. It is maintained that the deceased workman after his retrenchment remained ill and could not raised the dispute during the period but raised his voice for re-employment through the union and ultimately, he died on 06.10.2013. The deceased workman after his retrenchment did not remain in the gain full employed till his death.

2. It is also maintained that similar matters have been decided by the Hon'ble Punjab & Haryana High Court vide its judgments dated 07.05.2007 in CWP Nos.3061-64 of 2006, 3069 of 2006,3073-3083 of 2006,3085-3087 of 2006,3090-3137 of 2006 and 3148-3149 of 2006. These judgments of the Hon'ble High Court have been upheld by the Hon'ble Apex Court in case titled ***Bhakra Beas Management Board Vs. Biri Singh and others etc. in SLP Nos. 16939-17007 of 2007*** vide of orders dated 08.07.2014. Vide order dated 08.07.2014 the Hon'ble Supreme Court has ordered that the matter to be taken up before the Industrial Tribunal. Many of the workmen have already taken up the matters before the learned Central Govt. Industrial Tribunal-cum-Labour Court No.1 and 2 Chandigarh. It may also not be out of context to mention here that the present matter is covered by the Judgment of the Hon'ble Supreme Court in the case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar, JT 2014 (10) SC 168***. It is therefore, prayed that the claim petition of the applicant may kindly be allowed and retrenchment/discharge order dated 15.10.1977 of the deceased workman be held illegal and the workman be considered in continuous service up to date of his superannuation or the date of death, whichever is earlier, and the management may be directed to release all consequential benefits in favor of the applicants being legal heirs of the deceased workman.

3. Respondents filed written statement, alleging therein that the applicants are legal heirs of the deceased workman and their application is not maintainable under the provisions of the Act and the applicants raised the present dispute at a belated stage after 40 years without furnishing any plausible reason for extraordinary delay. The deceased workman Sh. Balak Ram was Ex-work charged employee of Beas Construction Board (BCB), which was constituted under Section 80(1) of the Re-organization Act. The deceased workman was retrenched after completion/part completion of the works of BCB in accordance with the provisions of the Act. The deceased workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Punjab Govt. Irrigation Department prior to the re-organization of the erstwhile State of Punjab on 01.11.1966. After re-organization the work of BSL(P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organization Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board (hereinafter called as BMB) constituted under Section 79(1) of the Re-organization Act. It is further stated under Section 80(5) of the Re-organization Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organization Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. Even work-charged employees of the BCB had filed a writ petition in the Hon'ble Supreme Court of India, titled as ***Jaswant Singh and another Vs. Union of India &Anr., 1979 SCC 440,*** in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the applicants is hopelessly time barred and the applicants, being legal heirs, have no legal right to file claim petition under the Act. It is prayed that claim be dismiss.

Evidence of parties:

4. Parties were given opportunity to lead evidence.

5. Applicant No.2 Mr. Sunil Kumar S/o Late Sh. Balak Ram, has examined himself as WW1, who tendered his affidavit in evidence as Ex.WW1/A and has been cross-examined by the law officer of management. He also tendered document Ex.WW1/1 Discharge Certificate and Ex.WW1/2 Death Certificate of deceased workman. AR for applicants closed the evidence on behalf of workman on 04.12.2023.

6. The management has filed affidavit of Er. Dinesh Kumar S/o Hawa Singh, Executive Engineer, Balancing Reservoir Slit Clearance and Plant Design Division, BBMB Sundernagar, Distt. Mandi, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned AR of workman. He tendered into evidence copy of service record of workman Ex.MW1/B and closed the evidence on behalf of management on 16.10.2024 and the case is fixed for arguments.

Submissions of Applicants:

7. While arguing the case, ld. AR for the applicants contended that in this case, claim has been filed by the LRs

of deceased, who expired on 06.10.2013 and as per law laid down by Hon'ble Supreme Court and various Hon'ble High Courts, claim can be filed even after the death of the applicant. To support this view, he placed reliance upon the in case law titled as ***Anjaliamma and others versus Labour Court-III at Hyderabad rep. by its Presiding Officer, Hyderabad and another, 1995(6) SLR 680***, ***Bharathamma and others versus The Labour Court and another (WP No.11342 of 1994) 1995(2) Andh. LD 472*** and ***Rameshwar Manjhi versus Management of Sangaramgarh Colliery (1994 AIR 1176, 1994 SCC (1) 292.*** He further contended that in this case deceased workman was discharged on 15.10.1977 due to reduction in strength and he was issued discharge certificate by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the Act which provides re-employment of retrenched deceased workman. He further has drawn the attention of the Court towards the statement of wife of deceased workman. He was required to be adjust in view of Section 25-H of the Act by the management. He was not given any employment. While arguing further, learned AR for the workman referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957 (hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workman and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. He also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the Act.

Submissions of management:-

8. While arguing the case, learned Law Officer for the management contended that initially Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Deceased workman Sh. Balak Ram was employed as work charged employee on 18.10.1973 and was retrenched on 15.10.1977. All similar work charged employees including the present workman were engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and another Vs. Union of India &Anr., 1979 SCC 440*** has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India. AR for management further argued that as per Rule 4 of the Industrial Dispute (Central) Rules 1957, the application and the statement can be signed by the workman himself or by any officer of the trade union of which he is member or by another workmen in the same establishment duly authorized by him in his behalf and since in this case, application has not been moved by the applicants, the claim is not maintainable and is liable to be dismissed.

9. So far as the claim of the applicants regarding re-employment after retrenchment on 15.10.1977 is concerned, workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial peace and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

> ***"It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."***

10. Because the deceased workman Sh. Balak Ram had not completed 10 years of service so he is not entitled for re-employment. Learned representative for the management further contended that in this case workman was retrenched on 15.10.1977 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his claim is hopelessly time barred as the legal heirs have filed the present claim petition in the year 2020**.** To support this view he has placed reliance in the case titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682,*** wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 40 years. He also relied

upon the case titled as ***Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018***, where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the Act does not prescribed time limit for referring such dispute. AR for respondents also relied upon the judgment passed by Hon'ble High Court of Himachal Pradesh Shimla in ***CWP No.3057 of 2023 titled as Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others*** and judgment passed by Hon'ble High Court, Madras in ***WP Nos.5556 of 2021 titled as Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others,*** wherein it is stated that as per Section 2-A(3) of the Act, the order should be challenged within 3 years from the date of dismissal, discharge, retrenchment or otherwise termination of service as specified un sub-section (1) of Section 2-A. In the present case workman was engaged on 18.10.1973 and was discharged on 15.10.1977 and the legal heir has sought re-employment after 40 years which was held to be highly time barred. Thus, he contended that claim of applicants is time barred. Deceased workman was discharged on 15.10.1977 and thereafter his legal heirs filed present claim before the Labour Conciliation Officer.

Findings:

11. I have given due consideration to the arguments advanced by the learned AR for the workman and also for the respondents.

12. So far as this contention of the AR for the respondents that in this case, application is not maintainable by LRs concerned, the same is devoid of merit as Hon'ble High Court of Andhra Pradesh in case law titled as ***Anjaliamma and others versus Labour Court-III at Hyderabad rep. by its Presiding Officer, Hyderabad and another (supra)*** and ***Bharathamma and others versus The Labour Court and another (supra)*** has categorically held that in case workman had died, then even LRs of the deceased can move an application in respect of the monetary benefits. The relevant para 14 & 15 of ***Anjaliamma and others versus Labour Court-III at Hyderabad rep. by its Presiding Officer, Hyderabad and another (supra)*** are produced as under:

> *14. As already pointed out supra the question weather the legal heirs/representatives of a deceased-workman can raise an industrial dispute directly under Section 2-A(2) of the Act did not arise for consideration in any of the decisions of the High Courts or in Rameshwar Manjhi's case (supra). But the Supreme Court in para 13 in the context of an industrial dispute filed under Section 2-A of the Act has laid down the law that in the event of death of the workman during pendency of the proceedings the legal representatives or heirs can continue the proceedings. If according to the Apex Court if a pending proceedings can be continued by the legal heirs/representatives of the deceased workman after the death of the workman during the pendency of the proceedings, there is no good reason to hold that such legal representatives/heirs are incompetent to institute the dispute before the Industrial Court after the death of a workman have locus standi to continue an industrial dispute instituted by such workman in a Labour Court in law, then they are also competent to institute such workman. The observation of the Supreme Court in paras 11 and 12 in general and in para 13 in particular read with the views expressed by the Calcutta (sic. Kerala) High Court in Gwalior Rayon's case (supra) and that of the Gujarat High Court in Bank of Baroda's case (supra) which views are affirmed by the Apex Court in Rameshwar Manjhi's case clearly go to show that legal heirs/representatives of a deceased workman can institute industrial dispute before the jurisdictional Labour Court after the death of such workman.*
>
> *15. This question may be considered from another angle as well. As pointed out supra, the Labour Court in exercise of its discretionary power under Section 11-A of the Act can grant reliefs of reinstatement or lumpsum compensation in lieu of reinstatement, back wages, continuity of services or any other appropriate relief, pecuniary or otherwise having regard to the facts and circumstances of each case. In the present case if the workman were to alive he would have instituted the industrial dispute in the Labour Court and there was absolutely no legal impediment for him to do so and if the Industrial Court were to uphold the claim of the workman it would have granted the relief of reinstatement or lumpsum compensation in lieu of reinstatement, back wages and other reliefs. If that is so what the deceased workman himself would have been awarded by the Labour Court except the relief of reinstatement had he be survived, should be considered to be a part of his estate. The learned Authors Clerk & Lindsell on Torts have pointed out that since it is the deceased's own cause of action which survives for the benefit of his estate, the estate should recover such damages as the deceased himself would have been awarded had he survived. Therefore it should be held that with the death of the workman the cause of action to seek reliefs contemplated under the Act from the Labour Court does not die with him in totality and the causes of action to recover lumpsum compensation in lieu of reinstatement and back-wages do survive for the benefit of his estate. Recognizing this position and in order to resolve the conflict of opinions existed earlier among several High Courts, the Legislature inserted sub-section (8) in Section 10 by Amending Act 46 of 1982 and after the amendment proceedings before any adjudicatory authority in relation to an industrial dispute shall not lapse merely be reason of the death of any of the parties to the dispute being a workman and the adjudicator is enjoined to complete such proceedings and submit his award to appropriate Government. There cannot be any dispute that the petitioners-legal heirs of the deceased workman are entitled to the estate left behind the workman. This is so having regard to the provisions of Section 306 of the Indian Succession Act and the observation of the Division Bench of the Gujarat High Court in the case of*

Bank of Baroda extracted above and approved by the Apex Court. In that view of the matter I am in respectful agreement with the view taken by may learned brother S. Dasaradha Rama Reddy, J. ***in Bharathamma & Others v. The Labour Court (supra)*** *and it does not require any reconsideration.*

Thus, application on behalf of LRs is maintainable and arguments advanced by the AR for respondents is not maintainable.

13. The management relied upon mainly in this case on the case titled as ***Jaswant Singh and another (supra),*** which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners was employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad-hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the Bhakra Nangal Scheme.

14. In respect of these employees, it was held as follow:-

"To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi- permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes."

15. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

"41.A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.

42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.

43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the pro- visions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment9 and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.

44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.

45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. Jatin

Chakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."

16. Thus, from the above observation of Hon'ble Supreme Court it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

17. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi under Section 12 of the Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceeding an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

18. So far as the settlement executed between the work charged employees and management through unions, the same has not been produced by the management despite opportunity was given to file the same. Thus, adverse interference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as ***2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another*** **wherein it has been** held **"that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party".** In this case also as per order dated 24.02.2025 of this Tribunal, respondents were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. On 13.03.2025, Mr. Ravinder Rana, Law Officer appeared on behalf of respondents and stated that aforesaid settlement is not traceable. It is also added here that in similar decided matters, wherein number of opportunities were given to the respondents to produce the said settlement, however, despite of availing specific directions, the said policy was not produced. Those cases are ***ID No.247/2005 titled as Dharam Singh Versus BBMB and another, ID No.127/2005 titled as Narpat Ram versus Bhakra Beas Management Board and another*** and other similar matters. As such adverse inference can be drawn against the management in view of the above law.

19. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follow:-

"Regulation of Services of the workcharged employees.

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which

they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be stuck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I fell that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear In mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board has by and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee. Even Himachal Pradesh Government generally followed the Punjab policy. The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government. The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well at the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect. Moreover financial implications and other complications are involved.

In such circumstances stated above, would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture. Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt, what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be

employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

20. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

21. It is specific case of the applicants that respondents also appointed fresh workmen, but preference was not given to Late Sh. Balak Ram during his lifetime, which is in clear violation of section 25-H of the Act. In this regard, it is pointed out that no pointed cross examination has been done by the law officer of the respondents, meaning thereby, the respondents have admitted that they have engaged fresh workmen but preference was not given to the deceased workman during his life time.

22. Admittedly, in this case, no effort was made by the respondents to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

77. Maintenance of seniority list of workmen. *-The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*

78. Re-employment of retrenched workmen. - *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefore, to the address given by him at the time of retrenchment or at any time thereafter:*

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:

Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.

23. Moreover, a perusal of cross examination of Er. Dinesh Kumar (MW1) reveals that the deceased workman was never called for re-appointment at any point of time and as per aforesaid Rule 77 & 78, the workman was required to be given notice. Moreover, no explanation has been given that after the retrenchment of the deceased workman, other persons were not recruited by the management, which is in violation of Section 25-H of the Act.

24. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employe them. However, certainly in respect of workcharged employees present respondents were directed by the Hon'ble Supreme Court in Judgment of ***Jaswant Singh (Supra)*** to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employe them. Thus, it does not lie in the mouth of present respondents that no relief can be granted against present respondents as deceased workman

Sh. Balak Ram was not their employee.

A. So far as this argument of Ld. AR of the management that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"

Nothing has come on record that above directions were complied with.

25. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

26. As regard, this contention of learned AR of management that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the BBMB. Moreover, as per respondents Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in ***Jaswant Singh case (supra)*** in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the management that BCB and BBMB are two separate entities is devoid of merit.

27. So far this argument of Law Officer for the respondents that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2020. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of ***Jaswant Singh case (Supra).*** Moreover, limitation was added in Section 2A of the Act in the year 2010 (15.09.2010) and deceased workman was dismissed from service on 15.10.1977 and AR for respondents has failed to bring this fact that the aforesaid provision was retrospective.

28. It is added here that in the present case, the reference was made under clause (d) of sub-section (1) of Section 10 of the Act. It is not case filed under Section 2-A of the Act. Hon'ble Supreme Court of India in case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)*** has held as follow:

"42. It is an undisputed fact that the dispute was raised by the workman after he was acquitted in the criminal case which was initiated at the instance of the respondent. Raising the industrial dispute belatedly and getting the same referred from the State Government to the Labour Court is for justifiable reason and the same is supported by law laid down by this Court in Calcutta Dock Labour Board (supra). Even assuming for the sake of the argument that there was a certain delay and latches on the part of the workman in raising the industrial dispute and getting the same referenced for adjudication, the Labour Court is statutorily duty bound to answer the points of dispute referred to it by adjudicating the same on merits of the case and it ought to have moulded the relief appropriately in favour of the workman. That has not been done at all by the Labour Court. Both the learned single Judge as well as the Division Bench of the High Court in its Civil Writ Petition and the Letters Patent Appeal have failed to consider this important aspect of the matter."

Even Hon'ble Supreme Court in para no.31 of the said judgment has held as follow:

"31. The rejection of the reference by the Labour Court by answering the additional issue no. 2 regarding the delay latches and limitation without adjudicating the points of dispute referred to it on the merits amounts to failure to exercise its statutory power under Section 11A of the Act. Therefore, we have to interfere with the

impugned award of the Labour Court and the judgment & order of the High Court as it has erroneously confirmed the award of the Labour Court without examining the relevant provisions of the Act and decisions of this Court referred to supra on the relevant issue regarding the limitation."

29. Hon'ble Supreme Court has also referred in the said case decision of ***Ajaib Singh v. The Sirhind Co-Operative Marketing Cum- Processing Service Society Limited & Anr***.(***AIR 1999 Supreme Court 1351***), wherein, Court has opined that relief cannot be denied to the workman merely on the ground of delay, stating that:-

"10. It follows, therefore, that the provisions of Article 137 of the Schedule to Limitation Act, 1963 are not applicable to the proceedings under the act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the labour court can be generally questioned on the ground of delay alone. Even in a case where the delay in shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/ termination or dismissal.

30. In view of the aforesaid observations of the Hon'ble Supreme Court, the delay was not thus fatal to the case of the applicants. It is also added here that so far as the case ***Ram Chand Vs. The BBMB and another (supra), Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others (supra)*** and ***Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others (supra)*** referred by the AR for respondents are concerned, those cases were filed by the workman under Section 2-A of the Act, which specifically provides limitation of 3 years from the date of dismissal or retrenchment. Section 10(1) of the Act specifically provide that appropriate government may refer any industrial dispute at any time, whereas the same is conspicuously absent in sub-section (3) of Section 2A, which could clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-section (3) of Section 2A. Thus, period of limitation cannot be considered. So far as the case law titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal (supra),*** the same is not attracted to the facts and circumstance of the present case in view of the judgment ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)***, whose relevant paras are reproduced above. Therefore, it cannot be said that case of applicants was beyond limitation.

31. However, it is added that Mr. Sunil Kumar S/o Late Sh. Balak Ram (deceased workman) in his affidavit nowhere stated that retrenchment compensation was not paid to his father. In his cross examination, he has stated that he has no knowledge whether his father was paid retrenchment compensation. Remaining silent in his affidavit that his father was not paid any retrenchment compensation meaning thereby that his father was paid retrenchment compensation by the management. Moreover, in written statement, stand of the respondents is that the deceased workman was paid all terminal benefits i.e. retrenchment compensation, gratuity and ex-gratia etc. on account of retrenchment from BCB as per provisions of the Act and other relevant laws. Thus, it shall be presumed that deceased workman was given retrenchment compensation. Even a perusal of service record (MW1/B) of deceased workman reveals that he was paid gratuity etc. So, there is no breach of Section 25 F of the Act.

32. Further, there was non-compliance of ***Jaswant Singh Case (Supra)***, Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employe the workman. The only remedy left is to compensate the workman in term of money.

33. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

i. Workcharged employee who has completed 5 years of service or more shall be entitled for Rs.50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.

ii. Workcharged employee who has completed less than 5 years but more than 1 year would be entitled Rs. 25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.

iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

34. Deceased workman Balak Ram was employed on 18.10.1973 and was retrenched on 15.10.1977 as mentioned in Discharge Certificate (Ex.WW1/2) issued by Sub Divisional Officer, BBMB Sundernagar, and has worked for 4 years approximately (less than 5 years), so the applicants are entitled for Rs.25,000/- along with interest @9% per annum from the date of moving the application till its realization.

35. The reference is answered accordingly and stands disposed off.

36. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1109.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह – श्रम न्यायालय नंबर** 2, चंडीगढ़ के पंचाट **(संदर्भ संख्या 60/2020)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आईआर(सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1109.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 60/2020)** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19/06/2025.**

[No. L-22013/01/2025– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Mr. Kamal Kant, Presiding Officer.

ID No. 60/2020

Registered on:-24.09.2020

Ram Lal S/o Sh. Ganga Ram, R/o Village and PO Jagatkhana, Tehsil Nainadevi, Distt. Bilaspur, Himachal Pradesh.

…….....Applicant/Workman

Versus

1. The Chairman, Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board, BSL Project, Sundernagar-175038.

…..Respondents/Management

Present:- Mr. S C Gupta, AR for workman.

Sh. Ravinder Rana (Law Officer), AR for Management.

AWARD

Passed on:- 03.04.2025

Central Government vide Notification No.ID-8(12)2019/B-IV/CHD dated 18.09.2020 under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of management of Bhakra Beas Management Board in retrenching the services of Sh. Ram Lal S/o Sh. Ganga Ram is illegal and unjustified. If so, to what relief he is entitled to?"

1. The brief facts, related to the case are that the construction of Beas Sutluj Link Project {hereinafter called as BSL(P)} started in the year 1962 under Beas Control Board, which was constituted on 10.02.1961 with its headquarter at Sundernagar. After passing of Pb. Re-Organization Act, 1966 (hereinafter called "Re-Organization Act") Beas Control Board was replaced by Beas Construction Board (hereinafter called "BCB"). The workman was employed by BSL Project, Sundernagar on 29.01.1966. The workman who was employed in Beas Project(Unit-1) become the employee of Bhakra Beas Management Board(hereinafter called as BBMB) in pursuance of proviso (1) of Section 80(3) and Section 80(5) of Re-organization Act and the workman become the employee of the Centre Government under the management of B.B.M.B. from 15.05.1976. The workmen of this project were considered as the employees of the Central Government by the Hon'ble Supreme Court in case titled as ***Jaswant Singh and others Versus Union of India and others (AIR 1980 Supreme Court page 115)***. The workman has completed 240 days in

every calendar year and was not interrupted till his retrenchment. The employer made a bulk retrenchment of project employees in the year 1977 and 1978 and also in stages thereafter till 1984. The workman was also retrenched by the employer on 30.06.1977 and copy of discharge certificate was issued by the office of Sub Divisional Officer, BBMB Sundernagar in accordance with provision of the Act. After the retrenchment of the workman, thousands of other persons were appointed secretly by employer, violating Section 25-G, Section 25-H, Rule 77 & 78 of the I.D. Act, 1947. The BSL Project is an industrial establishment as per Section 25 L of the ID Act. This action of the management also violates the directions of Hon'ble Supreme Court as mentioned in Para 40 of the case of ***Jaswant Singh (supra)***. No notice as per Rule 78 of the Industrial Disputes (Central) Rules, 1957, which is statutory requirement, has been issued to the workman. Not only this no seniority list as per law was prepared and principle of last come first go was violated by the management at the time of retrenchment of the workman, which also violates Section 25G of the ID Act.

2. It is also maintained that similar matters have been decided by the Hon'ble Punjab & Haryana High Court vide its judgments dated 7.5.2007 in CWP Nos.3061-64 of 2006, 3069 of 2006,3073-3083 of 2006,3085-3087 of 2006,3090-3137 of 2006 and 3148-3149 of 2006. These judgments of the Hon'ble High Court have been upheld by the Hon'ble Apex Court in the case titled ***Bhakra Beas Management Board Vs. Biri Singh and others etc. in SLP Nos. 16939-17007 of 2007*** vide of orders dated 08.07.2014. Vide order dated 08.07.2014 the Hon'ble Supreme Court has ordered that the matter to be taken up before the Industrial Tribunal. Many of the workmen have already taken up the matters before the learned Central Govt. Industrial Tribunal-cum-Labour Court No.1 and 2 Chandigarh. It may also not be out of context to mention here that the present matter is covered by the Judgment of the Hon'ble Supreme Court in the case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar reported in JT 2014 (10) SC 168***. It is therefore, prayed that the claim petition of the workman may kindly be allowed and retrenchment/discharge order dated 30.06.1977 of the workman be held illegal since workman has already retired in April 2002, so he may be released consequential benefits till date.

3. Management filed written statement, alleging therein that workman is Ex-work charged employee of Beas Construction Board, which was constituted under Section 80(1) of the Re-organization Act. The workman was retrenched after completion of the work of BCB in accordance with the provisions of the ID Act and settlement in this behalf. The workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of ID Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Irrigation Department Punjab Govt. prior to the re-organization of the erstwhile State of Punjab on 01.11.1966. After re-organization the work of BSL(P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organization Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board(hereinafter called as BMB) constituted under Section 79(1) of the Re-organization Act. It is further stated under Section 80(5) of the Re-organization Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organization Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. Even work-charged employees of the BCB had filed a petition in the Hon'ble Supreme Court of India, titled as ***Jaswant Singh and another Vs. Union of India &Anr., 1979 SCC 440,*** in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the workman is hopelessly time barred and the workman has no legal enforceable right to claim employment in BBMB. It is prayed that claim be dismiss.

4. A rejoinder was also filed by workman contravening the facts taken in written statement as reiterating the facts as stated in claim petition.

5. Parties were given opportunity to lead evidence.

Evidence of workman:

6. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the law officer of management. He also tendered document Ex.WW1/1 Discharge Certificate and AR for workman closed evidence on 04.12.2023.

Evidence of respondents:-

7. The respondents have filed affidavit of Er. Dinesh Kumar son of Sh. Hawa Singh, Executive Engineer, Balancing Reservoir Slit Clearance & Plant Design Division, BBMB Sundernagar, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned counsel of workman. He also tendered photocopy of Service Record of workman as Ex.MW1/B and management evidence was closed on 16.10.2024 and the matter was fixed for arguments.

Submissions of Management:

8. While arguing the case, learned Law Officer for the respondents contended that initially Beas Control Board

was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Present workman was employed as work charged employee on 29.01.1966 and was retrenched on 30.06.1977. All similar work charged employees including the present workman were engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440*** has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India.

9. So far as the claim of the workman regarding re-employment after retrenchment on 30.06.1977 is concerned, workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial peace and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

> ***"It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."***

10. Learned representative for the management further contended that in this case workman was retrenched on 30.06.1977 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his claim is hopelessly time barred as he has filed the present claim petition in the year 2020**.** To support this view he has placed reliance in the case titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682,*** wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 40 years. He also relied upon the case titled as ***Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018 ,***where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the ID Act does not prescribed time limit for referring such dispute. AR for respondents also relied upon the judgment passed by Hon'ble High Court of Himachal Pradesh Shimla in ***CWP No.3057 of 2023 titled as Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others*** and judgment passed by Hon'ble High Court, Madras in ***WP Nos.5556 of 2021 titled as Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others,*** wherein it is stated that as per Section 2-A(3) of the ID Act, the order should be challenged within 3 years from the date of dismissal, discharge, retrenchment or otherwise termination of service as specified un sub-section (1) of Section 2-A. In the present case workman was engaged on 29.01.1966 and was discharged on 30.06.1977 and he has sought re-employment after 40 years which was held to be highly time barred. Thus, he contended that claim of workman is time barred. Workman was discharged on 30.06.1977 and thereafter he filed present claim before the Labour Conciliation Officer.

Submissions of applicant:-

11. While arguing the case, learned AR for the workman contended that in this case workman was discharged on 30.06.1977 illegally and he was issued discharge certificate WW1/1 by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the ID Act which provides re-employment of retrenched workman. He further has drawn the attention of the Court towards the statement of the workman. He was required to be adjust in view of Section 25-H of the Act by the management. He was not given any employment. While arguing further, learned AR for the workman referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957(hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workman and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. She also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the ID Act.

Findings:-

12. I have given due consideration to the arguments advanced by the learned AR for the workman and also for the respondents.

13. The respondents relied upon mainly in this case on the case titled as ***Jaswant Singh and another (supra),*** which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners was employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the Bhakra Nangal Scheme.

14. In respect of these employees, it was held as follow:-

> ***"To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi- permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes."***

15. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

> ***"41.A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.***
>
> ***42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.***
>
> ***43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the pro- visions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.***
>
> ***44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.***
>
> ***45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. Jatin***

Chakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."

16. Thus, from the above observation of Supreme Court it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

17. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi under Section 12 of the ID Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceedings an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

18. So far as the settlement executed between the work charged employees and management through unions, the same has not been produced by the management despite opportunity was given to file the same. Thus, adverse interference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as ***2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another*** **wherein it has been** held **"that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party".** In this case also as per order dated 24.02.2025 of this Tribunal, respondents were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of ID Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. On 13.03.2025, Mr. Ravinder Rana, Law Officer appeared on behalf of respondents and stated that aforesaid settlement is not traceable. It is also added here that in similar decided matters, wherein number of opportunities were given to the respondents to produce the said settlement, however, despite of availing specific directions, the said policy was not produced. Those cases are ***ID No.247/2005 titled as Dharam Singh Versus BBMB and another, ID No.127/2005 titled as Narpat Ram versus Bhakra Beas Management Board and another*** and other similar matters. As such adverse inference can be drawn against the management in view of the above law.

19. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follow:-

"Regulation of Services of the workcharged employees.

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which

they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be stuck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I fell that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear In mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board has by and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee. Even Himachal Pradesh Government generally followed the Punjab policy. The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government. The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well at the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect. Moreover financial implications and other complications are involved.

In such circumstances stated above, would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture. Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt, what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be

employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

20. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

21. It is specific case of the workman that respondents also appointed fresh workmen, but preference was not given to him, which is in clear violation of section 25-H of the ID Act. In this regard, it is pointed out that no pointed cross examination has been done by the law officer of the respondents, meaning thereby, the respondents has admitted that they have engaged fresh workmen but preference was not given to the workman.

22. Admittedly, in this case, no effort was made by the respondent to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

77. Maintenance of seniority list of workmen. *-The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*

78. Re-employment of retrenched workmen. - *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefore, to the address given by him at the time of retrenchment or at any time thereafter:*

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:

Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.

23. Moreover, a perusal of cross examination of Er. Dinesh Kumar (MW1) reveals that the workman was never called for re-appointment at any point of time and as per aforesaid Rule 77 & 78, the workman was required to be given notice. Moreover, no explanation has been given that after the retrenchment of the workman, other persons were not recruited by the management, which is in violation of Section 25-H of the ID Act.

24. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employ them. However, certainly in respect of work-charged employees present Respondent was directed by the Hon'ble Supreme Court in Judgment of ***Jaswant Singh (Supra)*** to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employ them. Thus, it does not lie in the mouth of present Respondent that no relief can be granted against present Respondent as petitioners are not

their employees.

B. So far as this argument of Ld. AR of the management that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

> ***"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"***
>
> Nothing has come on record that above directions were complied with.

25. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

26. As regard, this contention of learned AR of management that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the BBMB. Moreover, as per respondent Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in ***Jaswant Singh case (supra)*** in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the management that BCB and BBMB are two separate entities is devoid of merit.

27. So far this argument of Law Officer for the respondent that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2020. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of ***Jaswant Singh case (Supra)***. Moreover, limitation was added in Section 2A of the ID Act in the year 2010 (15.09.2010) and workman was dismissed from service on 30.06.1977 and AR for respondents failed to bring this fact that the aforesaid provision was retrospective.

28. It is added here that in the present case, the reference was made under clause (d) of sub-section (1) of Section 10 of the Act. It is not case filed under Section 2-A of the Act. Hon'ble Supreme Court of India in case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)*** has held as follow:

"42. It is an undisputed fact that the dispute was raised by the workman after he was acquitted in the criminal case which was initiated at the instance of the respondent. Raising the industrial dispute belatedly and getting the same referred from the State Government to the Labour Court is for justifiable reason and the same is supported by law laid down by this Court in Calcutta Dock Labour Board (supra). Even assuming for the sake of the argument that there was a certain delay and latches on the part of the workman in raising the industrial dispute and getting the same referenced for adjudication, the Labour Court is statutorily duty bound to answer the points of dispute referred to it by adjudicating the same on merits of the case and it ought to have moulded the relief appropriately in favour of the workman. That has not been done at all by the Labour Court. Both the learned single Judge as well as the Division Bench of the High Court in its Civil Writ Petition and the Letters Patent Appeal have failed to consider this important aspect of the matter."

Even Hon'ble Supreme Court in para no.31 of the said judgment has held as follow:

> *"31. The rejection of the reference by the Labour Court by answering the additional issue no. 2 regarding the delay latches and limitation without adjudicating the points of dispute referred to it on the merits amounts to failure to exercise its statutory power under Section 11A of the Act. Therefore, we have to interfere with the impugned award of the Labour Court and the judgment & order of the High Court as it has erroneously confirmed the award of the Labour Court without examining the relevant provisions of the Act and decisions of*

this Court referred to supra on the relevant issue regarding the limitation."

29. Hon'ble Supreme Court has also referred in the said case decision of ***Ajaib Singh v. The Sirhind Co-Operative Marketing Cum- Processing Service Society Limited & Anr***.(***AIR 1999 Supreme Court 1351***), wherein, Court has opined that relief cannot be denied to the workman merely on the ground of delay, stating that:-

"10. It follows, therefore, that the provisions of Article 137 of the Schedule to Limitation Act, 1963 are not applicable to the proceedings under the act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the labour court can be generally questioned on the ground of delay alone. Even in a case where the delay in shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/ termination or dismissal.

30. In view of the aforesaid observations of the Hon'ble Supreme Court, the delay was not thus fatal to the case of the appellant. It is also added here that so far as the case ***Ram Chand Vs. The BBMB and another (supra), Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others (supra)*** and ***Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others (supra)*** referred by the AR for respondents are concerned, those cases were filed by the workman under Section 2-A of the ID Act, which specifically provides limitation of 3 years from the date of dismissal or retrenchment. Section 10(1) of the ID Act specifically provide that appropriate government may refer any industrial dispute at any time, whereas the same is conspicuously absent in sub-section (3) of Section 2A, which could clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-section (3) of Section 2A. Thus, period of limitation cannot be considered. So far as the case law titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal (supra),*** the same is not attracted to the facts and circumstance of the present case in view of the judgment ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)***, whose relevant paras are reproduced above. Therefore, it cannot be said that case of applicant was beyond limitation.

31. However, it is added that workman in his cross examination has admitted that he was given notice in the year 1977 and Rs.5000/- at the time of his retrenchment including salary for that month. Moreover, in written statement, stand of the respondents is that the workman was paid all terminal benefits i.e. retrenchment compensation, gratuity and ex-gratia etc. on account of retrenchment from BCB as per provisions of the ID Act and other relevant laws. Thus, it shall be presumed that workman was given retrenchment compensation. Even a perusal of service record (MW1/B) of workman reveals that he was paid gratuity etc. So, there is no breach of Section 25 F of the Act.

32. Further, there was non-compliance of ***Jaswant Singh Case (Supra)***, Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employ the workman. The only remedy left is to compensate the workman in term of money.

33. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

i. Workcharged employee who has completed 5 years of service or more shall be entitled for Rs.50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.

ii. Workcharged employee who has completed less than 5 years but more than 1 year would be entitled Rs.25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.

iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

34. The present work charged workman was employed on 29.01.1966 and was retrenched on 30.06.1977 as mentioned in Discharge Certificate (Ex.WW1/1) issued by Sub Divisional Officer, BBMB Sundernagar, and has worked for 11 years and about 5 months (more than 5 years), so he is entitled of Rs.50,000/- along with interest @9% per annum from the date of moving the application till its realization.

35. The reference is answered accordingly and stands disposed off.

36. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1110.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह – श्रम न्यायालय नंबर** 2, चंडीगढ़ के पंचाट **(संदर्भ संख्या 41/2020)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आईआर(सी.एम- II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1110.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No.41/2020*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19*/06/2025.***

[No. L-22013/01/2025– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Mr. Kamal Kant, Presiding Officer.

ID No. 41/2020

Registered on:- 24.08.2020

Amar Nath son of Shri Sant Ram, Now resident of House No.98, Ward No.9, Near P&T Colony, Hamirpur, Himachal Pradesh

…….....Applicant/Workman

Versus

1. The Chairman, Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh.

2. The Chief Engineer, Bhakra Beas Management Board, BSL Project, Sundernagar-175038.

…..Respondents/Management

Present:- Mr. S C Gupta, AR for workman.

Sh. Ravinder Rana (Law Officer), AR for Management.

Award

Passed on:- 03.04.2025

Central Government vide Notification No.ID-(15)2019/B-IV/CHD dated 14.08.2020 under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of management of Bhakra Beas Management Board in retrenching the services of Sh. Amar Nath S/o Sh. Sant Ram is illegal and unjustified. If so, to what relief he is entitled to?"

1. The brief facts, related to the case are that the construction of Beas Sutluj Link Project {hereinafter called as BSL(P)} started in the year 1962 under Beas Control Board, which was constituted on 10.02.1961 with its headquarter at Sundernagar. After passing of Pb. Re-Organization Act, 1966(hereinafter called "Re-Organization Act") Beas Control Board was replaced by Beas Construction Board (hereinafter called "BCB"). The workman was employed by BSL Project, Sundernagar on 02.05.1968. The workman who was employed in Beas Project(Unit-1) become the employee of Bhakra Beas Management Board (hereinafter called as BBMB) in pursuance of proviso (1) of Section 80(3) and Section 80(5) of Re-organization Act and the workman become the employee of the Centre Government under the management of B.B.M.B. from 15.05.1976. The workmen of this project were considered as the employees of the Central Government by the Hon'ble Supreme Court in case titled as ***Jaswant Singh and others Versus Union of India and others (AIR 1980 Supreme Court page 115)***. The workman has completed 240 days in every calendar year and was not interrupted till his retrenchment. The employer made a bulk retrenchment of project employees in the year 1977 and 1978 and also in stages thereafter till 1984. The workman was also retrenched by the employer on 30.03.1984 and copy of discharge certificate was issued by the office of Sub Divisional Officer, BBMB Sundernagar in accordance with provision of the Act. After the retrenchment of the workman, thousands of other persons were appointed secretly by employer, violating Section 25-G, Section 25-H, Rule 77 & 78 of the I.D. Act, 1947. The BSL Project is an industrial establishment as per Section 25 L of the Act. This action of the management also violates the directions of Hon'ble Supreme Court as mentioned in Para 40 of the case of ***Jaswant Singh (supra)***. No notice as per Rule 78 of the Industrial Disputes (Central) Rules, 1957, which is statutory requirement, has been issued to the workman. Not only this no seniority list as per law was prepared and principle of last come first go was violated by the management at the time of retrenchment of the workman, which also violates Section 25G of the Act.

2. It is also maintained that similar matters have been decided by the Hon'ble Punjab & Haryana High Court vide its judgments dated 7.5.2007 in CWP Nos,3061-64 of 2006, 3069 of 2006,3073-3083 of 2006,3085-3087 of 2006,3090-3137 of 2006 and 3148-3149 of 2006. These judgments of the Hon'ble High Court have been upheld by the Hon'ble Apex Court in the case titled ***Bhakra Beas Management Board Vs. Biri Singh and others etc. in SLP Nos. 16939-17007 of 2007*** vide of orders dated 8.7.2014. Vide order dated 8.7.2014 the Hon'ble Supreme Court has ordered that the matter to be taken up before the Industrial Tribunal. Many of the workmen have already taken up the matters before the learned Central Govt. Industrial Tribunal-cum-Labour Court No.1 and 2 Chandigarh. It may also not be out of context to mention here that the present matter is covered by the Judgment of the Hon'ble Supreme Court in the case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar reported in JT 2014 (10) SC 168***. It is therefore, prayed that the claim petition of the workman may kindly be allowed and retrenchment/discharge order dated 30.03.1984 of the workman be held illegal since workman has already retired in January 2007, so he may be released consequential benefits till date.

3. Management filed written statement, alleging therein that workman is Ex-work charged employee of Beas Construction Board, which was constituted under Section 80(1) of the Re-organization Act. The workman was retrenched after completion of the work of BCB in the year 1970. The workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Irrigation Department Punjab Govt. prior to the re-organization of the erstwhile State of Punjab on 01.11.1966. After re-organization the work of BSL(P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organization Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board (hereinafter called as BMB) constituted under Section 79(1) of the Re-organization Act. It is further stated under Section 80(5) of the Re-organization Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organization Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. Even work-charged employees of the BCB had filed a petition in the Hon'ble Supreme Court of India, titled as ***Jaswant Singh and another Vs. Union of India &Anr., 1979 SCC 440,*** in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the workman is hopelessly time barred and the workman has no legal enforceable right to claim employment in BBMB. It is prayed that claim be dismiss.

4. A rejoinder was also filed by workman contravening the facts taken in written statement as reiterating the facts as stated in claim petition.

5. Parties were given opportunity to lead evidence.

Evidence of workman:

6. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the law officer of management. He also tendered document Ex.WW1/1 Discharge Certificate. AR for workman closed the evidence on behalf of workman on 26.05.2023.

Evidence of respondents:-

7. The respondents have filed affidavit of Er. Dinesh Kumar son of Sh. Hawa Singh, Executive Engineer, Balancing Reservoir Slit Clearance & Plant Design Division, BBMB Sundernagar, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned counsel of workman. He also tendered photocopy of Service Record of workman as Ex.MW1/B.

Submissions of Management:

8. While arguing the case, learned Law Officer for the respondents contended that initially Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Present workman was employed as work charged employee on 02.05.1968 and was retrenched on 30.03.1984. All similar work charged employees including the present workman were engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440*** has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-

Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India.

9. So far as the claim of the workman regarding re-employment after retrenchment on 30.03.1984 is concerned, workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial peace and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

> ***"It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."***

10. Learned representative for the management further contended that in this case workman was retrenched on 30.03.1984 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his claim is hopelessly time barred as he has filed the present claim petition in the year 2020. To support this view he has placed reliance in the case titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682,*** wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 40 years. He also relied upon the case titled as ***Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018*** where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the Act does not prescribed time limit for referring such dispute. AR for respondents also relied upon the judgment passed by Hon'ble High Court of Himachal Pradesh Shimla in ***CWP No.3057 of 2023 titled as Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others*** and judgment passed by Hon'ble High Court, Madras in ***WP Nos.5556 of 2021 titled as Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others,*** wherein it is stated that as per Section 2-A(3) of the Act, the order should be challenged within 3 years from the date of dismissal, discharge, retrenchment of otherwise termination of service as specified un sub-section (1) of Section 2-A. In the present case workman was engaged with management on 02.05.1968 and was discharged on 30.03.1984 and he has sought re-employment after 40 years which was held to be highly time barred. Thus, he contended that claim of workman is time barred. Workman was discharged on 30.03.1984 and thereafter he filed present claim before the Labour Conciliation Officer.

Submissions of applicant:-

11. While arguing the case, learned AR for the workman contended that in this case workman was discharged on 30.03.1984 illegally and he was issued discharge certificate WW1/1 by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the Act which provides re-employment of retrenched workman. He further has drawn the attention of the Court towards the statement of the workman. He was required to be adjust in view of Section 25-G of the Act by the management. He was not given any employment. While arguing further, learned AR for the workman referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957(hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workman and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. She also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the Act.

Findings:-

12. I have given due consideration to the arguments advanced by the learned AR for the workman and also for the respondents.

13. The management relied upon mainly in this case on the case titled as ***Jaswant Singh and another (supra),*** which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners was employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the Bhakra Nangal Scheme.

14. In respect of these employees, it was held as follow:-

"To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi- permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes."

15. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

"41.A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.

42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.

43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the pro- visions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.

44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.

45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. Jatin Chakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."

16. Thus, from the above observation of Hon'ble Supreme Court it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

17. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi under Section 12 of the Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceedings an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

18. So far as the settlement executed between the work charged employees and management through unions, the same has not been produced by the management despite opportunity was given to file the same. Thus, adverse interference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as ***2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another*** **wherein it has been** held **"that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party".** In this case also as per order dated 24.02.2025 of this Tribunal, respondents were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. On 13.03.2025, Mr. Ravinder Rana, Law Officer appeared on behalf of respondents and stated that aforesaid settlement is not traceable. It is also added here that in similar decided matters, wherein number of opportunities were given to the respondents to produce the said settlement, however, despite of availing specific directions, the said policy was not produced. Those cases are ID No.247/2005 titled as Dharam Singh Versus BBMB and another, ID No.127/2005 titled as Narpat Ram versus Bhakra Beas Management Board and another and other similar matters. Hence, it would be a futile exercise to give date to produce the same. As such adverse inference can be drawn against the management in view of the above law.

19. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follow:-

"Regulation of Services of the workcharged employees.

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the

employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be stuck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I fell that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear In mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board has by and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee. Even Himachal Pradesh Government generally followed the Punjab policy. The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government. The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well at the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect. Moreover financial implications and other complications are involved.

In such circumstances stated above, would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture. Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt, what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

20. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged

employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

21. It is specific case of the workman that respondents also appointed fresh workmen, but preference was not given to him, which is in clear violation of section 25-H of the Act. In this regard, it is pointed out that no pointed cross examination has been done by the law officer of the respondents, meaning thereby, the respondents has admitted that they have engaged fresh workmen but preference was not given to the workman.

22. Admittedly, in this case, no effort was made by the respondent to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

> ***77. Maintenance of seniority list of workmen***. *-The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*
>
> ***78. Re-employment of retrenched workmen. -*** *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefore, to the address given by him at the time of retrenchment or at any time thereafter:*
>
> *Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:*
>
> *Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:*
>
> *Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]*
>
> *(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:*
>
> *Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.*

23. Moreover, a perusal of cross examination of Er. Dinesh Kumar (MW1) reveals that the workman was never called for re-appointment at any point of time and as per aforesaid Rule 77 & 78, the workman was required to be given notice. Moreover, no explanation has been given that after the retrenchment of the workman, other persons were not recruited by the management, which is in violation of Section 25-H of the Act.

24. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employe them. However, certainly in respect of workcharged employees present Respondent was directed by the Hon'ble Supreme Court in Judgment of Jaswant Singh (Supra) to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employe them. Thus, it does not lie in the mouth of present Respondent that no relief can be granted against present Respondent as petitioners are not their employees.

C. So far as this argument of Ld. AR of the management that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"

Nothing has come on record that above directions were complied with.

25. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

26. As regard, this contention of learned AR of management that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the BBMB. Moreover, as per respondent Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in Jaswant Singh case (supra) in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the management that BCB and BBMB are two separate entities is devoid of merit.

27. So far this argument of Law Officer for the respondent that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2020. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of ***Jaswant Singh case (Supra)***. Moreover, limitation was added in Section 2A of the Act in the year 2010 (15.09.2010) and workman was dismissed from service on 30.03.1984 and AR for respondents has failed to brought this fact that the aforesaid provision was retrospective.

28. It is added here that in the present case, the reference was made under clause (d) of sub-section (1) of Section 10 of the Act. It is not case filed under Section 2-A of the Act. Hon'ble Supreme Court of India in case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)*** has held as follow:

"42. It is an undisputed fact that the dispute was raised by the workman after he was acquitted in the criminal case which was initiated at the instance of the respondent. Raising the industrial dispute belatedly and getting the same referred from the State Government to the Labour Court is for justifiable reason and the same is supported by law laid down by this Court in Calcutta Dock Labour Board (supra). Even assuming for the sake of the argument that there was a certain delay and latches on the part of the workman in raising the industrial dispute and getting the same referenced for adjudication, the Labour Court is statutorily duty bound to answer the points of dispute referred to it by adjudicating the same on merits of the case and it ought to have moulded the relief appropriately in favour of the workman. That has not been done at all by the Labour Court. Both the learned single Judge as well as the Division Bench of the High Court in its Civil Writ Petition and the Letters Patent Appeal have failed to consider this important aspect of the matter."

Even Hon'ble Supreme Court in para no.31 of the said judgment has held as follow:

> *"31. The rejection of the reference by the Labour Court by answering the additional issue no. 2 regarding the delay latches and limitation without adjudicating the points of dispute referred to it on the merits amounts to failure to exercise its statutory power under Section 11A of the Act. Therefore, we have to interfere with the impugned award of the Labour Court and the judgment & order of the High Court as it has erroneously confirmed the award of the Labour Court without examining the relevant provisions of the Act and decisions of this Court referred to supra on the relevant issue regarding the limitation."*

29. Hon'ble Supreme Court has also referred in the said case decision of ***Ajaib Singh v. The Sirhind Co-Operative Marketing Cum- Processing Service Society Limited & Anr***.(***AIR 1999 Supreme Court 1351***), wherein, Court has opined that relief cannot be denied to the workman merely on the ground of delay, stating that:-

> *"10. It follows, therefore, that the provisions of Article 137 of the Schedule to Limitation Act, 1963 are not applicable to the proceedings under the act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the labour court can be generally questioned on the ground of delay alone. Even in a case where the delay in shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant*

back wages to the workman till the date he raised the demand regarding his illegal retrenchment/ termination or dismissal.

30. In view of the aforesaid observations of the Hon'ble Supreme Court, the delay was not thus fatal to the case of the appellant. It is also added here that so far as the case ***Ram Chand Vs. The BBMB and another (supra), Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others (supra)*** and ***Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others (supra)*** referred by the AR for respondents are concerned, those cases were filed by the workman under Section 2-A of the Act, which specifically provides limitation of 3 years from the date of dismissal or retrenchment. Section 10(1) of the Act specifically provide that appropriate government may refer any industrial dispute at any time, whereas the same is conspicuously absent in sub-section (3) of Section 2A, which could clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-section (3) of Section 2A. Thus, period of limitation cannot be considered. So far as the case law titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal (supra),*** the same is not attracted to the facts and circumstance of the present case in view of the judgment ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)***, whose relevant paras are reproduced above. Therefore, it cannot be said that case of applicant was beyond limitation.

31. However, it is added that workman in his cross examination has admitted that he was served with notice of 24 hours before his retrenchment along with one month salary and at that time Rs.1,000/- was given to him as retrenchment compensation. Moreover, in written statement, stand of the respondents is that the workman was paid all terminal benefits i.e. retrenchment compensation, gratuity and ex-gratia etc. on account of retrenchment from BCB as per provisions of the Act and other relevant laws. Even a perusal of service record (MW1/B) of workman reveals that he was paid gratuity etc. So, there is no breach of Section 25 F of the Act.

32. Further, there was non-compliance of ***Jaswant Singh Case (Supra)***, Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employe the workman. The only remedy left is to compensate the workman in term of money.

33. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

i. Workcharged employee who has completed 5 years of service or more shall be entitled for Rs.50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.

ii. Workcharged employee who has completed less than 5 years but more than 1 year would be entitled Rs. 25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.

iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

34. The present work charged workman was employed on 02.05.1968 and was retrenched on 30.03.1984 as mentioned in Discharge Certificate (Ex.WW1/1) issued by Sub Divisional Officer, BBMB Sundernagar, and has worked for 15 years and about 11 months (more than 15 years) so he is entitled of Rs.50,000/- along with interest @9% per annum from the date of moving the application till its realization.

35. The reference is answered accordingly and stands disposed off.

36. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1111.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह – श्रम न्यायालय नंबर** 2, चंडीगढ़ के पंचाट **(संदर्भ संख्या 39/2020)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आईआर(सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1111.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No.39/2020*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19*/06/2025***.

[No. L-22013/01/2025– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

(Presided over by Mr. Kamal Kant).

ID No. 39/2020

Registered on:-07.09.2020

1. Smt. Karmi Devi Wd/o Sh. Dev Raj.

2. Sh. Himal Chand Sharma S/o Late Sh. Dev Raj

LRs of the Deceased Workman Sh. Dev Raj, R/o Village Gandhvi, Tehsil Bhoranj, Distt. Hamirpur, Himachal Pradesh.

-------- Applicants

Versus

1. The Chairman, Bhakra Beas Management Board, Madhya Marg, Sector 19-B, Chandigarh, 160019.

2. The Chief Engineer, Bhakra Beas Management Baord, BSL Project, Sundernagar, 175038.

----Respondents

Present:- Mr. S C Gupta, AR for Workman

Mr. Sandeep Sharma, Law Officer for respondent no.1 and 2.

Award : 03.04.2025

Central Government vide Notification No.ID-8(4) 2020/B-IV/CHD dated 14.08.2020, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of management of Bhakra Beas Management Board in terminating services of Late Sh. Dev Raj, workman is illegal and unjustified. If so, to what relief he (legal heirs) are entitled to?"**

1. The matter is fixed for filing affidavit by the applicants since 16.10.2024. However, the same was not filed despite availing several opportunities. Today also, no affidavit of workman has been filed.

2. Since the applicants, despite availing several opportunities, have not filed their affidavit to prove their case against the respondents, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present reference.

3. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the ID Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1112.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह – श्रम न्यायालय नंबर** 2, चंडीगढ़ के पंचाट **(संदर्भ संख्या 179/2019)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आईआर(सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1112.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No.179/2019)** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19/06/2025**

[No. L-22013/01/2025– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Mr. Kamal Kant, Presiding Officer.

ID No.179/2019

Registered on:- 24.12.2019

Sunka Ram S/o Sh. Ram Dass, R/o Village Dagdahan, PO Jagatkhana, Tehsil Nainadevi, Distt. Bilaspur, Himachal Pradesh.

…….....Workman

Versus

1. The Chairman, Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh-160019.

2. The Chief Engineer, Bhakra Beas Management Board, BSL Project, Sundernagar - 175038.

…..Respondents

Present:- Mr. S C Gupta, AR for workman.

Sh. Naveen Singla, Law Officer for Management.

AWARD

Passed on:-02.05.2025

Central Government vide Notification No.ID-(9))2019/B-IV/CHD dated 17.12.2019 under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of management of Bhakra Beas Management Board in not accepting the demand of Shri Sunka Ram for deeming/considering him in continuous service upto age of superannuation and resultantl consequential benefits is legal and justified? If not, to what relief the workman is entitled to and from which date?**

1. The brief facts, related to the case are that the construction of Beas Sutluj Link Project {hereinafter called as BSL(P)} started in the year 1962 under Beas Control Board, which was constituted on 10.02.1961 with its headquarter at Sundernagar. After passing of Pb. Re-Organization Act, 1966 (hereinafter called as "Re-Organization Act") Beas Control Board was replaced by Beas Construction Board (hereinafter called as "BCB"). The workman was employed by BSL Project, Sundernagar 29.11.1971. The workman who was employed in Beas Project (Unit-1) become the employee of Bhakra Beas Management Board (hereinafter called as BBMB) in pursuance of proviso (1) of Section 80(3) and Section 80(5) of Re-organization Act and the workman become the employee of the Centre Government under the management of B.B.M.B. from 15.05.1976. The workmen of this project were considered as the employees of the Central Government by the Hon'ble Supreme Court in case titled as ***Jaswant Singh and others Versus Union of India and others (AIR 1980 Supreme Court page 115)***. The workman has completed 240 days in every calendar year and was not interrupted till his retrenchment. The employer made a bulk retrenchment of project employees in the year 1977 and 1978 and also in stages thereafter till 1984. The workman was also retrenched by the employer on 29.11.1978. After the retrenchment of the workman, thousands of other persons were appointed secretly by employer, violating Section 25-G, Section 25-H, Rule 77 & 78 of the I.D. Act, 1947. The BSL Project is an industrial establishment as per Section 25 L of the Act. This action of the management also violates the directions of Hon'ble Supreme Court as mentioned in Para 40 of the case of ***Jaswant Singh (supra)***. No notice as per Rule 78 of the Industrial Disputes (Central) Rules, 1957, which is statutory requirement, has been issued to the workman. Not only this no seniority list as per law was prepared and principle of last come first go was violated by the management at the time of retrenchment of the workman, which also violates Section 25G of the Act.

2. It is also maintained that similar matters have been decided by the Hon'ble Punjab & Haryana High Court vide its judgments dated 7.5.2007 in CWP Nos.3061-64 of 2006, 3069 of 2006,3073-3083 of 2006,3085-3087 of 2006,3090-3137 of 2006 and 3148-3149 of 2006. These judgments of the Hon'ble High Court have been upheld by the Hon'ble Apex Court in the case titled ***Bhakra Beas Management Board Vs. Biri Singh and others etc. in SLP Nos. 16939-17007 of 2007*** vide of orders dated 08.07.2014. Vide order dated 08.07.2014 the Hon'ble Supreme Court has ordered that the matter to be taken up before the Industrial Tribunal. Many of the workmen have already taken up the matters before the learned Central Govt. Industrial Tribunal-cum-Labour Court No.1 and 2 Chandigarh. It may

also not be out of context to mention here that the present matter is covered by the Judgment of the Hon'ble Supreme Court in the case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar reported in JT 2014 (10) SC 168***. It is therefore, prayed that the claim petition of the workman may kindly be allowed and retrenchment/discharge order dated 29.11.1978 of the workman be held illegal since workman has already retired in the year 2015, so he may be released consequential benefits till date.

3. Respondents filed written statement, alleging therein that workman is Ex-work charged employee of Beas Construction Board, which was constituted under Section 80(1) of the Re-organization Act. The workman was retrenched after completion of the work of BCB in the year 1970. The workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Irrigation Department Punjab Govt. prior to the re-organization of the erstwhile State of Punjab on 01.11.1966. After re-organization the work of BSL (P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organization Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board (hereinafter called as BMB) constituted under Section 79(1) of the Re-organization Act. It is further stated under Section 80(5) of the Re-organization Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organization Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. Even work-charged employees of the BCB had filed a petition in the Hon'ble Supreme Court of India, titled as ***Jaswant Singh and another Vs. Union of India &Anr., 1979 SCC 440,*** in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the workman is hopelessly time barred and the workman has no legal enforceable right to claim employment in BBMB. It is prayed that claim be dismiss.

4. A rejoinder was also filed by workman contravening the facts taken in written statement as reiterating the facts as stated in claim petition.

5. Parties were given opportunity to lead evidence.

Evidence of workman:

6. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the law officer of management. AR for workman closed the evidence on behalf of workman on 09.07.2024.

Evidence of respondents:-

7. The respondents have filed affidavit of Er. Dinesh Kumar son of Sh. Hawa Singh, Executive Engineer, Balancing Reservoir Slit Clearance & Plant Design Division, BBMB Sundernagar, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by AR of workman. AR for respondents closed the evidence on behalf of management on 20.11.2024 and the matter was fixed for arguments.

Submissions of Management:

8. While arguing the case, learned Law Officer for the respondents contended that initially Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Present workman was employed as work charged employee 29.11.1971 and was retrenched on 29.11.1978. All similar work charged employees including the present workman were engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440*** has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India.

9. So far as the claim of the workman regarding re-employment after retrenchment on 29.11.1978 is concerned, workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial peace and to secure the work charge employees after completing the work can engage after completion of project at any

time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

> ***"It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."***

10. Because the present workman had not completed 10 years of service so he is not entitled for re-employment. Learned representative for the management further contended that in this case workman was retrenched on 29.11.1978 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his claim is hopelessly time barred as he has filed the present claim petition in the year 2019**.** To support this view he has placed reliance in the case titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682,*** wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 42 years. He also relied upon the case titled as ***Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018*** where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the Act does not prescribed time limit for referring such dispute. AR for respondents also relied upon the judgment passed by Hon'ble High Court of Himachal Pradesh Shimla in ***CWP No.3057 of 2023 titled as Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others*** and judgment passed by Hon'ble High Court, Madras in ***WP Nos.5556 of 2021 titled as Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others,*** wherein it is stated that as per Section 2-A(3) of the Act, the order should be challenged within 3 years from the date of dismissal, discharge, retrenchment of otherwise termination of service as specified un sub-section (1) of Section 2-A. In the present case workman was engaged with management 29.11.1971 and was discharged on 29.11.1978 and he has sought re-employment after 42 years which was held to be highly time barred. Thus, he contended that claim of workman is time barred. Workman was discharged on 29.11.1978 and thereafter he filed present claim before the Labour Conciliation Officer.

Submissions of applicant:-

11. While arguing the case, learned AR for the workman contended that in this case workman was discharged on 29.11.1978 illegally. He referred to Section 25-H of the Act which provides re-employment of retrenched workman. He further has drawn the attention of the Court towards the statement of the workman. He was required to be adjust in view of Section 25-G of the Act by the management. He was not given any employment. While arguing further, learned AR for the workman referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957 (hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workman and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. She also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the Act.

Findings:-

12. I have given due consideration to the arguments advanced by the learned AR for the workman and also for the respondents.

13. The management relied upon mainly in this case on the case titled as ***Jaswant Singh and another (supra),*** which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners was employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the Bhakra Nangal Scheme.

14. In respect of these employees, it was held as follow:-

> ***"To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make***

representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi- permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes."

15. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

"41.A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.

42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.

43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the pro- visions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.

44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.

45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. Jatin Chakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half

years caused in filing the SLP shall have to be dismissed."

16. Thus, from the above observation of Hon'ble Supreme Court it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

17. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi under Section 12 of the Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceedings an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

18. So far as the settlement executed between the work charged employees and management through unions, the same has not been produced by the management despite opportunity was given to file the same. Thus, adverse interference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as ***2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another,*** wherein it has been held

"*that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party*."

19. In this case also as per order dated 03.04.2025 of this Tribunal, respondents were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. On 29.04.2025, Mr. Naveen Singla, Law Officer appeared on behalf of respondents and stated that aforesaid settlement is not traceable. It is also added here that in similar decided matters, wherein number of opportunities were given to the respondents to produce the said settlement, however, despite of availing specific directions, the said policy was not produced. Those cases are ID No.247/2005 titled as Dharam Singh Versus BBMB and another, ID No.127/2005 titled as Narpat Ram versus Bhakra Beas Management Board and another and other similar matters. As such adverse inference can be drawn against the management in view of the above law.

20. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follows:-

"Regulation of Services of the workcharged employees.

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be stuck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I fell that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear In mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board has by and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee. Even Himachal Pradesh Government generally followed the Punjab policy. The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government. The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well at the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect. Moreover financial implications and other complications are involved.

In such circumstances stated above, would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture. Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt, what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

21. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

22. It is specific case of the workman that respondents also appointed fresh workmen, but preference was not

given to him, which is in clear violation of section 25-H of the Act. In this regard, it is pointed out that no pointed cross examination has been done by the law officer of the respondents, meaning thereby, the respondents has admitted that they have engaged fresh workmen but preference was not given to the workman.

23. Admittedly, in this case, no effort was made by the respondent to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

> ***77. Maintenance of seniority list of workmen***. *-The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*
>
> ***78. Re-employment of retrenched workmen. -*** *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefore, to the address given by him at the time of retrenchment or at any time thereafter:*
>
> *Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:*
>
> *Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:*
>
> *Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]*
>
> *(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:*
>
> *Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.*

24. Moreover, a perusal of cross examination of Er. Dinesh Kumar (MW1) reveals that the workman was never called for re-appointment at any point of time and as per aforesaid Rule 77 & 78, the workman was required to be given notice. Moreover, no explanation has been given that after the retrenchment of the workman, other persons were not recruited by the management, which is in violation of Section 25-H of the Act.

25. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employ them. However, certainly in respect of work-charged employees present Respondent was directed by the Hon'ble Supreme Court in Judgment of ***Jaswant Singh (Supra)*** to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employ them. Thus, it does not lie in the mouth of present Respondent that no relief can be granted against present Respondent as petitioners are not their employees.

D. So far as this argument of Ld. AR of the management that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

> ***"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"***
>
> Nothing has come on record that above directions were complied with.

26. Moreover, in the absence of production of settlement between work charged employees and management, it

cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

27. As regard, this contention of learned AR of management that workman was not the employee of the BBMB but was the employee of BCB, the same is devoid of merit as none of the workman who appeared in the witness box has been put any suggestion that he was not employee of BBMB and was employee of BCB. Moreover, as per respondent Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in ***Jaswant Singh case (supra)*** in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the management that BCB and BBMB are two separate entities is devoid of merit.

28. So far this argument of Law Officer for the respondent that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2019. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of ***Jaswant Singh case (Supra)***. Moreover, limitation was added in Section 2A of the Act in the year 2010 (15.09.2010) and workman was dismissed from service on 29.11.1978 and AR for respondents has failed to bring this fact that the aforesaid provision was retrospective.

29. It is added here that in the present case, the reference was made under clause (d) of sub-section (1) of Section 10 of the Act. It is not case filed under Section 2-A of the Act. Hon'ble Supreme Court of India in case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)*** has held as follow:

"42. It is an undisputed fact that the dispute was raised by the workman after he was acquitted in the criminal case which was initiated at the instance of the respondent. Raising the industrial dispute belatedly and getting the same referred from the State Government to the Labour Court is for justifiable reason and the same is supported by law laid down by this Court in Calcutta Dock Labour Board (supra). Even assuming for the sake of the argument that there was a certain delay and latches on the part of the workman in raising the industrial dispute and getting the same referenced for adjudication, the Labour Court is statutorily duty bound to answer the points of dispute referred to it by adjudicating the same on merits of the case and it ought to have moulded the relief appropriately in favour of the workman. That has not been done at all by the Labour Court. Both the learned single Judge as well as the Division Bench of the High Court in its Civil Writ Petition and the Letters Patent Appeal have failed to consider this important aspect of the matter."

Even Hon'ble Supreme Court in para no.31 of the said judgment has held as follow:

> *"31. The rejection of the reference by the Labour Court by answering the additional issue no. 2 regarding the delay latches and limitation without adjudicating the points of dispute referred to it on the merits amounts to failure to exercise its statutory power under Section 11A of the Act. Therefore, we have to interfere with the impugned award of the Labour Court and the judgment & order of the High Court as it has erroneously confirmed the award of the Labour Court without examining the relevant provisions of the Act and decisions of this Court referred to supra on the relevant issue regarding the limitation."*

30. Hon'ble Supreme Court has also referred in the said case decision of ***Ajaib Singh v. The Sirhind Co-Operative Marketing Cum- Processing Service Society Limited & Anr***.(***AIR 1999 Supreme Court 1351***), wherein, Court has opined that relief cannot be denied to the workman merely on the ground of delay, stating that:-

"10. It follows, therefore, that the provisions of Article 137 of the Schedule to Limitation Act, 1963 are not applicable to the proceedings under the act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the labour court can be generally questioned on the ground of delay alone. Even in a case where the delay in shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/ termination or dismissal.

31. In view of the aforesaid observations of the Hon'ble Supreme Court, the delay was not thus fatal to the case of the appellant. It is also added here that so far as the case ***Ram Chand Vs. The BBMB and another (supra),***

Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others (supra) and ***Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others (supra)*** referred by the AR for respondents are concerned, those cases were filed by the workman under Section 2-A of the Act, which specifically provides limitation of 3 years from the date of dismissal or retrenchment. Section 10(1) of the Act specifically provide that appropriate government may refer any industrial dispute at any time, whereas the same is conspicuously absent in sub-section (3) of Section 2A, which could clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-section (3) of Section 2A. Thus, period of limitation cannot be considered. So far as the case law titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal (supra),*** the same is not attracted to the facts and circumstance of the present case in view of the judgment ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)***, whose relevant paras are reproduced above. Therefore, it cannot be said that case of applicant was beyond limitation.

32. However, it is added that workman in his cross examination has admitted that he was retrenched as Beldar on 29.11.1978 and at the time of retrenchment, he was given notice and was paid approx Rs.2000/-. Moreover, in written statement, stand of the respondents is that the workman was paid all terminal benefits i.e. retrenchment compensation, gratuity and ex-gratia etc. on account of retrenchment from BCB as per provisions of the Act and other relevant laws. So, there is no breach of Section 25 F of the Act.

33. Further, there was non-compliance of ***Jaswant Singh Case (Supra)***, Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employ the workman. The only remedy left is to compensate the workman in term of money.

34. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

i. Work-charged employee who has completed 5 years of service or more shall be entitled for Rs. 50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.

ii. Work-charged employee who has completed less than 5 years but more than 1 year would be entitled Rs.25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.

iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

35. The present work charged workman was employed 29.11.1971 and was retrenched on 29.11.1978 and has worked for 7 years (more than 5 years) so he is entitled of Rs.50,000/- along with interest @9% per annum from the date of moving the application till its realization.

36. The reference is answered accordingly and stands disposed of.

37. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1113.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह – श्रम न्यायालय नंबर** 2, चंडीगढ़ के पंचाट **(संदर्भ संख्या 61/2018)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-23012/138/2018-आईआर(सी.एम-II)

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1113.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No.61/2018)** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19*/06/2025***.

[No. L-23012/138/2018– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Mr. Kamal Kant, Presiding Officer.

ID No. 61/2018

Registered on:- 04.12.2018

Smt. Khayalo Devi widow of Sh. Dhanu and others (LRs of the deceased workman Dhanu) R/o Village Makri, PO Jegmi, Tehsil Jhandutta, Distt. Bilaspur, Himachal Pradesh.

….……....Applicants

Versus

1. The Chairman, Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh -160019.

2. The Chief Engineer, Bhakra Beas Management Board, BSL Project Sundernagar, 175038.

…..Respondents/Managements

Present: Mr. S C Gupta, AR for workman.

Mr. Naveen Singla, Law Officer for the respondent no.1 & 2.

AWARD

Passed on:-01.05.2025

Central Government vide Notification No.L-23012/138/2018-IR(CM-II), dated 15.11.2018, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of management of BBMB in not accepting the demands of Smt. Khayalo Devi & others, LH/LR of Late Dhanu, for declaring his retrenchment/termination as illegal and considering him in continuous service upto age of superannuation resulting in entitlement of consequential benefits is legal, just and valid? If not, to what relief the legal heirs/legal representatives of late workman are entitled to and from which date?"**

1. The brief facts related to the case are that the applicants are legal heirs of Sh. Dhanu (deceased workman), who was engaged on 13.09.1969 for the construction of the Beas Sutluj Link Project {hereinafter called as BSL(P)}. The said project remained initially under the Management of Beas Control Board, which was constituted on 10.02.1961 and after enactment of Punjab Re-Organization Act, 1966 (hereinafter called "Re-Organization Act") Beas Control Board was renamed as Beas Construction Board (hereinafter called "BCB") and also Bhakra Management Board, which was established w.e.f. 01.10.1967 and later on it was renamed as Bhakra Beas Management Board (hereinafter called as BBMB), which is working as such w.e.f. 15.05.1976. The workman of this project was considered as the employees of the Central Government by the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and others versus Union of India and Others AIR 1980 SC 115***. The management made illegal retrenchment of the employees in phases and the deceased workman was also retrenched along with them. The deceased workman had completed 240 days in every calendar year and was not interrupted till his retrenchment and the retrenchment is illegal and in violation of Section 25F, 25H, Rule 77 and 78 of the Act. The deceased workman was also retrenched by the employer on 30.03.1984 and discharge certificate was issued by the office of Sub Divisional Officer, BBMB Sundernagar in accordance with provision of the Act. After the retrenchment of the workman, management appointed fresh workmen/employees, violating Section 25-H of the I.D. Act. The BSL (P) is an industrial establishment as per Section 25(L) of the Act. This action of the management also violates the directions of Hon'ble Supreme Court as mentioned in Para 40 of the case of ***Jaswant Singh (supra)***. No notice as per Rule 78 of the Industrial Disputes (Central) Rules, 1957, which is statutory requirement, has been issued to the workman. Not only this no seniority list as per law was prepared and principle of last come first go was violated by the management at the time of retrenchment of the workman, which also violates Section 25G of the Act. It is maintained that the

deceased workman after his retrenchment remained ill and could not raised the dispute during the period but raised his voice for re-employment through the union and ultimately, he died on 24.01.2002. The deceased workman after his retrenchment did not remain in the gain full employed till his death.

2. It is also maintained that similar matters have been decided by the Hon'ble Punjab & Haryana High Court vide its judgments dated 07.05.2007 in CWP Nos.3061-64 of 2006, 3069 of 2006,3073-3083 of 2006,3085-3087 of 2006,3090-3137 of 2006 and 3148-3149 of 2006. These judgments of the Hon'ble High Court have been upheld by the Hon'ble Apex Court in case titled ***Bhakra Beas Management Board Vs. Biri Singh and others etc. in SLP Nos. 16939-17007 of 2007*** vide of orders dated 08.07.2014. Vide order dated 08.07.2014 the Hon'ble Supreme Court has ordered that the matter to be taken up before the Industrial Tribunal. Many of the workmen have already taken up the matters before the learned Central Govt. Industrial Tribunal-cum-Labour Court No.1 and 2 Chandigarh. It may also not be out of context to mention here that the present matter is covered by the Judgment of the Hon'ble Supreme Court in the case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar, JT 2014 (10) SC 168***. It is therefore, prayed that the claim petition of the applicant may kindly be allowed and retrenchment/discharge order dated 30.03.1984 of the deceased workman be held illegal and the workman be deemed to be as in continuous service of the management till January 2002 and management be directed to release all consequential benefits till January 2002 in favor of the applicants being legal heirs of deceased workman.

3. Respondents filed written statement, alleging therein that the applicants are legal heirs of the deceased workman and their application is not maintainable under the provisions of the Act and the applicants raised the present dispute at a belated stage after 32 years without furnishing any plausible reason for extraordinary delay. The deceased workman was Ex-work charged employee of Beas Construction Board (BCB), which was constituted under Section 80(1) of the Re-organization Act. The deceased workman Sh. Dhanu was retrenched after completion/part completion of the works of BCB in accordance with the provisions of the Act. The deceased workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Punjab Govt. Irrigation Department prior to the re-organization of the erstwhile State of Punjab on 01.11.1966. After re-organization the work of BSL(P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organization Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board (hereinafter called as BMB) constituted under Section 79(1) of the Re-organization Act. It is further stated under Section 80(5) of the Re-organization Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organization Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. Even work-charged employees of the BCB had filed a writ petition in the Hon'ble Supreme Court of India, titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440,*** in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the applicant is hopelessly time barred and the applicant being legal heirs has no legal right to file claim petition under the Act. It is prayed that claim be dismiss.

4. A rejoinder was also filed by applicants contravening the facts taken in written statement as reiterating the facts as stated in claim petition.

5. Parties were given opportunity to lead evidence.

Evidence of Applicants:

6. Applicant Mr. Pawan Kumar S/o Late Sh. Dhanu has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the law officer of management. He also tendered document Ex.WW1/1 (Discharge Certificate), Ex.WW1/2 (Death Certificate) and Ex.WW1/3 (Legal Heirs Certificate of workman). AR for workman closed the evidence on behalf of workman on 09.07.2024.

Evidence of respondents:

7. The respondents have filed affidavit of Sh. Dinesh Kumar S/o Hawa Singh, Executive Engineer, Balancing Reservoir Slit Clearance and Plant Design Division, BBMB Sundernagar, Distt. Mandi, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned AR of workman. He tendered into evidence copy of service record of workman Ex.MW1/B and closed the evidence on behalf of management on 20.11.2024 and the case is fixed for arguments.

Submissions of Applicant:

8. While arguing the case, ld. AR for the applicants contended that in this case, claim has been filed by the LRs of deceased workman Sh. Dhanu, who expired on 24.01.2002 and as per law laid down by Hon'ble Supreme Court and various Hon'ble High Courts, claim can be filed even after the death of the applicant. To support this view, he placed reliance upon the in case law titled as ***Anjaliamma and others versus Labour Court-III at Hyderabad rep. by***

its Presiding Officer, Hyderabad and another, 1995(6) SLR 680, ***Bharathamma and others versus The Labour Court and another (WP No.11342 of 1994) 1995(2) Andh. LD 472*** and ***Rameshwar Manjhi versus Management of Sangaramgarh Colliery (1994 AIR 1176, 1994 SCC (1) 292.*** He further contended that in this case deceased workman was discharged on 30.03.1984 due to reduction in strength and he was issued discharge certificate by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the Act which provides re-employment of retrenched deceased workman. He further has drawn the attention of the Court towards the statement of wife of deceased workman. He was required to be adjust in view of Section 25-H of the Act by the management. He was not given any employment. While arguing further, learned AR for the applicants referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957 (hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workmen and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. He also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the Act.

Submissions of respondents:-

9. While arguing the case, learned Law Officer for the respondents contended that initially Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Deceased workman Sh. Dhanu was employed as work charged employee on 13.09.1969 and was retrenched on 30.03.1984. All similar work charged employees including the present workman were engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and another Vs. Union of India &Anr., 1979 SCC 440*** has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India. AR for management further argued that as per Rule 4 of the Industrial Dispute (Central) Rules 1957, the application and the statement can be signed by the workman himself or by any officer of the trade union of which he is member or by another workmen in the same establishment duly authorized by him in his behalf and since in this case, application has not been moved by the applicants, the claim is not maintainable and is liable to be dismissed.

10. So far as the claim of the applicants regarding re-employment after retrenchment on 30.03.1984 is concerned, deceased workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial peace and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

> ***It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."***

11. Learned AR for respondents further contended that in this case, deceased workman was retrenched on 30.03.1984 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his claim is hopelessly time barred as the legal heirs have filed the present claim petition in the year 2018. To support this view he has placed reliance in the case titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682,*** wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 32 years. He also relied upon the case titled as ***Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018***, where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the Act does not prescribed time limit for referring such dispute. AR for respondents also relied upon the judgment passed by Hon'ble High Court of Himachal Pradesh Shimla in ***CWP No.3057 of 2023 titled as Ghunghriya Ram versus***

Himachal Pradesh State Electricity Board Limited and others and judgment passed by Hon'ble High Court, Madras in ***WP Nos.5556 of 2021 titled as Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others,*** wherein it is stated that as per Section 2-A(3) of the Act, the order should be challenged within 3 years from the date of dismissal, discharge, retrenchment or otherwise termination of service as specified un sub-section (1) of Section 2-A. In the present case workman was engaged on 13.09.1969 and was discharged on 30.03.1984 and the legal heir have sought re-employment after 32 years which was held to be highly time barred. Thus, he contended that claim of applicants is time barred. Deceased workman was discharged on 30.03.1984 and thereafter his legal heirs filed present claim before the Labour Conciliation Officer.

Findings:

12. I have given due consideration to the arguments advanced by the learned AR for the applicants and also for the respondents.

13. So far as this contention of the AR for the respondents that in this case, application is not maintainable by LRs concerned, the same is devoid of merit as Hon'ble High Court of Andhra Pradesh in case law titled as ***Anjaliamma and others versus Labour Court-III at Hyderabad rep. by its Presiding Officer, Hyderabad and another (supra)*** and ***Bharathamma and others versus The Labour Court and another (supra)*** has categorically held that in case workman had died, then even LRs of the deceased can move an application in respect of the monetary benefits. The relevant para 14 & 15 of ***Anjaliamma and others versus Labour Court-III at Hyderabad rep. by its Presiding Officer, Hyderabad and another (supra)*** are produced as under:

> *14. As already pointed out supra the question whether the legal heirs/representatives of a deceased-workman can raise an industrial dispute directly under Section 2-A(2) of the Act did not arise for consideration in any of the decisions of the High Courts or in Rameshwar Manjhi's case (supra). But the Supreme Court in para 13 in the context of an industrial dispute filed under Section 2-A of the Act has laid down the law that in the event of death of the workman during pendency of the proceedings the legal representatives or heirs can continue the proceedings. If according to the Apex Court if a pending proceedings can be continued by the legal heirs/representatives of the deceased workman after the death of the workman during the pendency of the proceedings, there is no good reason to hold that such legal representatives/heirs are incompetent to institute the dispute before the Industrial Court after the death of a workman have locus standi to continue an industrial dispute instituted by such workman in a Labour Court in law, then they are also competent to institute such workman. The observation of the Supreme Court in paras 11 and 12 in general and in para 13 in particular read with the views expressed by the Calcutta (sic. Kerala) High Court in Gwalior Rayon's case (supra) and that of the Gujarat High Court in Bank of Baroda's case (supra) which views are affirmed by the Apex Court in Rameshwar Manjhi's case clearly go to show that legal heirs/representatives of a deceased workman can institute industrial dispute before the jurisdictional Labour Court after the death of such workman.*
>
> *15. This question may be considered from another angle as well. As pointed out supra, the Labour Court in exercise of its discretionary power under Section 11-A of the Act can grant reliefs of reinstatement or lumpsum compensation in lieu of reinstatement, back wages, continuity of services or any other appropriate relief, pecuniary or otherwise having regard to the facts and circumstances of each case. In the present case if the workman were to alive he would have instituted the industrial dispute in the Labour Court and there was absolutely no legal impediment for him to do so and if the Industrial Court were to uphold the claim of the workman it would have granted the relief of reinstatement or lumpsum compensation in lieu of reinstatement, back wages and other reliefs. If that is so what the deceased workman himself would have been awarded by the Labour Court except the relief of reinstatement had he be survived, should be considered to be a part of his estate. The learned Authors Clerk & Lindsell on Torts have pointed out that since it is the deceased's own cause of action which survives for the benefit of his estate, the estate should recover such damages as the deceased himself would have been awarded had he survived. Therefore it should be held that with the death of the workman the cause of action to seek reliefs contemplated under the Act from the Labour Court does not die with him in totality and the causes of action to recover lumpsum compensation in lieu of reinstatement and back-wages do survive for the benefit of his estate. Recognizing this position and in order to resolve the conflict of opinions existed earlier among several High Courts, the Legislature inserted sub-section (8) in Section 10 by Amending Act 46 of 1982 and after the amendment proceedings before any adjudicatory authority in relation to an industrial dispute shall not lapse merely be reason of the death of any of the parties to the dispute being a workman and the adjudicator is enjoined to complete such proceedings and submit his award to appropriate Government. There cannot be any dispute that the petitioners-legal heirs of the deceased workman are entitled to the estate left behind the workman. This is so having regard to the provisions of Section 306 of the Indian Succession Act and the observation of the Division Bench of the Gujarat High Court in the case of Bank of Baroda extracted above and approved by the Apex Court. In that view of the matter I am in respectful agreement with the view taken by may learned brother S. Dasaradha Rama Reddy, J. **in Bharathamma & Others v. The Labour Court (supra)** and it does not require any reconsideration.*

Thus, application on behalf of LRs is maintainable and arguments advanced by the AR for respondents are not

maintainable.

14. The management relied upon mainly in this case on the case titled as ***Jaswant Singh and another (supra),*** which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners was employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad-hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the Bhakra Nangal Scheme.

15. In respect of these employees, it was held as follow:-

"To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi- permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes."

16. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

"41.A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.

42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.

43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the pro- visions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment9 and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.

44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.

45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. Jatin Chakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind

all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."

17. Thus, from the above observation of Hon'ble Supreme Court, it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

18. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi under Section 12 of the Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceeding an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

19. So far as the settlement executed between the work charged employees and respondents through unions, the same has not been produced by the respondents despite opportunity was given to file the same. Thus, adverse interference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as ***2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another*** **wherein it has been** held **"that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party".** In this case also as per order dated 03.04.2025 of this Tribunal, respondents were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. On 29.04.2025, Mr. Naveen Singla, Law Officer appeared on behalf of respondents and stated that aforesaid settlement is not traceable. It is also added here that in similar decided matters, wherein number of opportunities were given to the respondents to produce the said settlement, however, despite of availing specific directions, the said policy was not produced. Those cases are ***ID No.247/2005 titled as Dharam Singh Versus BBMB and another, ID No.127/2005 titled as Narpat Ram versus Bhakra Beas Management Board and another*** and other similar matters. As such adverse inference can be drawn against the management in view of the above law.

20. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follow:-

"Regulation of Services of the workcharged employees.

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic

and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be stuck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I fell that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear In mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board has by and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee. Even Himachal Pradesh Government generally followed the Punjab policy. The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government. The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well at the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect. Moreover financial implications and other complications are involved.

In such circumstances stated above, would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture. Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt, what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also

the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

21. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

22. It is specific case of the applicants that respondents also appointed fresh workmen, but preference was not given to her late husband during his lifetime, which is in clear violation of section 25-H of the Act. In this regard, it is pointed out that no pointed cross examination has been done by the law officer of the respondents, meaning thereby, the respondents have admitted that they have engaged fresh workmen but preference was not given to the deceased workman during his life time.

23. Admittedly, in this case, no effort was made by the respondents to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

77. Maintenance of seniority list of workmen. *-The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*

78. Re-employment of retrenched workmen. - *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefore, to the address given by him at the time of retrenchment or at any time thereafter:*

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:

Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.

24. Moreover, a perusal of cross examination of Mr. Dinesh Kumar (MW1) reveals that the deceased workman was never called for re-appointment at any point of time and as per aforesaid Rule 77 & 78, the workman was required to be given notice. Moreover, no explanation has been given that after the retrenchment of the deceased workman, other persons were not recruited by the management, which is in violation of Section 25-H of the Act.

25. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employ them. However, certainly in respect of workcharged employees present respondents were directed by the Hon'ble Supreme Court in Judgment of ***Jaswant Singh (Supra)*** to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employ them. Thus, it does not lie in the mouth of present respondents that no relief can be granted against present respondents as deceased husband of applicant was not their employee.

26. So far as this argument of Ld. AR of the respondents that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the

same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"

Nothing has come on record that above directions were complied with.

27. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

28. As regard, this contention of learned AR of respondents that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the BBMB. Moreover, as per respondents Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in ***Jaswant Singh case (supra)*** in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the respondents that BCB and BBMB are two separate entities is devoid of merit.

29. So far this argument of AR for the respondents that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2018. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of ***Jaswant Singh case (Supra).*** Moreover, limitation was added in Section 2A of the Act in the year 2010 (15.09.2010) and deceased workman was dismissed from service on 30.03.1984 and AR for respondents has failed to bring this fact that the aforesaid provision was retrospective.

30. It is added here that in the present case, the reference was made under clause (d) of sub-section (1) of Section 10 of the Act. It is not case filed under Section 2-A of the Act. Hon'ble Supreme Court of India in case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)*** has held as follow:

"42. It is an undisputed fact that the dispute was raised by the workman after he was acquitted in the criminal case which was initiated at the instance of the respondent. Raising the industrial dispute belatedly and getting the same referred from the State Government to the Labour Court is for justifiable reason and the same is supported by law laid down by this Court in Calcutta Dock Labour Board (supra). Even assuming for the sake of the argument that there was a certain delay and latches on the part of the workman in raising the industrial dispute and getting the same referenced for adjudication, the Labour Court is statutorily duty bound to answer the points of dispute referred to it by adjudicating the same on merits of the case and it ought to have moulded the relief appropriately in favour of the workman. That has not been done at all by the Labour Court. Both the learned single Judge as well as the Division Bench of the High Court in its Civil Writ Petition and the Letters Patent Appeal have failed to consider this important aspect of the matter."

Even Hon'ble Supreme Court in para no.31 of the said judgment has held as follow:

"31. The rejection of the reference by the Labour Court by answering the additional issue no. 2 regarding the delay latches and limitation without adjudicating the points of dispute referred to it on the merits amounts to failure to exercise its statutory power under Section 11A of the Act. Therefore, we have to interfere with the impugned award of the Labour Court and the judgment & order of the High Court as it has erroneously confirmed the award of the Labour Court without examining the relevant provisions of the Act and decisions of this Court referred to supra on the relevant issue regarding the limitation."

31. Hon'ble Supreme Court has also referred in the said case decision of ***Ajaib Singh v. The Sirhind Co-Operative Marketing Cum- Processing Service Society Limited & Anr***.(***AIR 1999 Supreme Court 1351***), wherein,

Court has opined that relief cannot be denied to the workman merely on the ground of delay, stating that:-

> *"10. It follows, therefore, that the provisions of Article 137 of the Schedule to Limitation Act, 1963 are not applicable to the proceedings under the act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the labour court can be generally questioned on the ground of delay alone. Even in a case where the delay in shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/ termination or dismissal.*

32. In view of the aforesaid observations of the Hon'ble Supreme Court, the delay was not thus fatal to the case of the appellant. It is also added here that so far as the case ***Ram Chand Vs. The BBMB and another (supra), Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others (supra)*** and ***Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others (supra)*** referred by the AR for respondents are concerned, those cases were filed by the workman under Section 2-A of the Act, which specifically provides limitation of 3 years from the date of dismissal or retrenchment. Section 10(1) of the Act specifically provide that appropriate government may refer any industrial dispute at any time, whereas the same is conspicuously absent in sub-section (3) of Section 2A, which could clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-section (3) of Section 2A. Thus, period of limitation cannot be considered. So far as the case law titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal (supra),*** the same is not attracted to the facts and circumstance of the present case in view of the judgment ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)***, whose relevant paras are reproduced above. Therefore, it cannot be said that case of applicant was beyond limitation.

33. However, it is added that Sh. Pawan, son of deceased workman in his affidavit nowhere stated that retrenchment compensation was not paid to his father. In his cross examination, he has stated that he is not aware that at the time of retrenchment, his father was given notice. He is also not aware that his father was paid any compensation at the time of retrenchment. Remaining silent in his affidavit that his father was not paid any retrenchment compensation meaning thereby that his father was paid retrenchment compensation by the respondents. Moreover, in written statement, stand of the respondents is that the deceased workman was paid all terminal benefits i.e. retrenchment compensation, gratuity and ex-gratia etc. on account of retrenchment from BCB as per provisions of the Act and other relevant laws. Thus, it shall be presumed that deceased workman was given retrenchment compensation. Even a perusal of service record (MW1/B) of deceased workman reveals that he was paid gratuity etc. So, there is no breach of Section 25 F of the Act.

34. Further, there was non-compliance of ***Jaswant Singh Case (Supra)***, Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employe the workman. The only remedy left is to compensate the workman in term of money.

35. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

i. Workcharged employee who has completed 5 years of service or more shall be entitled for Rs. 50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.

ii. Workcharged employee who has completed less than 5 years but more than 1 year would be entitled Rs.25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.

iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

36. Deceased workman Sh. Dhanu was employed on 13.09.1969 and was retrenched on 30.03.1984 as mentioned in Discharge Certificate (Ex.WW1/1) issued by Sub Divisional Officer, BBMB Sundernagar, and has worked for about 14 years and about 7 months (more than 5 years), so the applicants are entitled for Rs.50,000/- along with interest @9% per annum from the date of moving the application till its realization.

37. The reference is answered accordingly and stands disposed off.

38. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1114.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार

बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह – श्रम न्यायालय नंबर** 2, चंडीगढ़ के पंचाट **(संदर्भ संख्या 17/2020)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आईआर(सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1114.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No.17/2020*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19*/06/2025*.**

[No. L-22013/01/2025– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

(Presided over by Mr. Kamal Kant).

ID No. 17/2020

Registered on:-17.08.2020

1. Durgi Devi D/o Late Sh. Gajjan Singh
2. Biri Singh
3. Bhup Singh
4. Meera Devi
5. Jawahar Singh
6. Dina Nath

Sons of late sh. Gajjan Singh, R/o Village Pasta, PO Troh, Tehsil Balh, Distt. Mandi, HP

-------- Applicants

Versus

1. The Chairman, BBMB Madhya Marg, Sector 19 A, Chandigarh.
2. The Chief Engineer, BSL Project, BBMB, Sundernagar Distt. Mandi, Himachal Pradesh.

----Respondents

Present:- None for Workman.

Mr. Naveen Singla, Law Officer for management.

Award : 01.05.2025

Central Government vide Notification No.8(7)2020/B-IV/CHD dated 01.07.2020, under Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether action of management of Bhakra Beas Management Board in terminating services of Late Sh. Gajjan workman is illegal and unjustified. If so, to what relief he (legal heirs) are entitled for?"

1. In this case, after receiving of reference, applicants were duly informed through registered post and instead of appearing in the Court, have filed claim statement and later on written statement was filed by the respondents and issues were framed on 27.03.2024 and matter was also fixed for filing affidavit, however, no affidavit has been filed. Even prior to that, applicants have never appeared in the Court except sending claim statement through post. Under these circumstances, it is held that applicants are not interested in pursuing the matter as since 23.09.2020, nobody has appeared on behalf of the applicants and even after framing of issues on 27.03.2024, nobody has filed affidavit on behalf of applicants. Sh. S C Gupta, Advocate vide his separate statement stated that he is not the authorized representative in the above noted case and his attendance was marked inadvertently on 2-3 dates along with other cases of him in the present case also.

2. Since the applicants have neither put their appearance nor they have filed any affidavit to prove their case against the respondents, as such, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present reference.

3. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1115.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह – श्रम न्यायालय नंबर** 2, चंडीगढ़ के पंचाट **(संदर्भ संख्या 180/2019)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-22013/01/2025-आईआर(सी.एम- II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1115.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 180/2019)** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19*/06/2025***.

[No. L-22013/01/2025– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Mr. Kamal Kant, Presiding Officer.

ID No. 180/2019
Registered on:- 24.12.2019

Durga Singh son of Sh. Khajalu Ram, Village Lower Brote, PO Paunta, Tehsil Sarkarghat, Distt. Mandi, Himachal Pradesh.

……....Workman

Versus

1. The Chairman, Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board, BSL Project, Sundernagar-175038.

…..Respondents/Management

Present:- Mr. S C Gupta, AR for workman.
Mr. Naveen Singla, AR for Management.

AWARD

Passed on:- 02.05.2025

Central Government vide Notification No.ID-(10)) 2019/B-IV/CHD. dated 17.12.2019 under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of management of Bhakra Beas Management Board in not accepting the demand of Shri Durga Singh for deeming/considering him in continuous service upto age of superannuation and resultant entitled for consequential benefits is legal and justified? If not, to what relief the workman is entitled to and from which date?**

1. The brief facts, related to the case are that the construction of Beas Sutluj Link Project {hereinafter called as BSL(P)} started in the year 1962 under Beas Control Board, which was constituted on 10.02.1961 with its

headquarter at Sundernagar. After passing of Pb. Re-Organization Act, 1966 (hereinafter called "Re-Organization Act") Beas Control Board was replaced by Beas Construction Board (hereinafter called "BCB"). The workman was employed by BSL Project, Sundernagar on 08.05.1974. The workman who was employed in Beas Project (Unit-1) become the employee of Bhakra Beas Management Board (hereinafter called as BBMB) in pursuance of proviso (1) of Section 80(3) and Section 80(5) of Re-organization Act and the workman become the employee of the Centre Government under the management of B.B.M.B. from 15.05.1976. The workmen of this project were considered as the employees of the Central Government by the Hon'ble Supreme Court in case titled as ***Jaswant Singh and others Versus Union of India and others (AIR 1980 Supreme Court page 115)***. The workman has completed 240 days in every calendar year and was not interrupted till his retrenchment. The employer made a bulk retrenchment of project employees in the year 1977 and 1978 and also in stages thereafter till 1984. The workman was also retrenched by the employer on 23.09.1977 and discharge certificate was issued by the office of Sub Divisional Officer, BBMB Sundernagar in accordance with provision of the Act. After the retrenchment of the workman, thousands of other persons were appointed secretly by employer, violating Section 25-G, Section 25-H, Rule 77 & 78 of the I.D. Act, 1947. The BSL Project is an industrial establishment as per Section 25 L of the Act. This action of the management also violates the directions of Hon'ble Supreme Court as mentioned in Para 40 of the case of ***Jaswant Singh (supra)***. No notice as per Rule 78 of the Industrial Disputes (Central) Rules, 1957, which is statutory requirement, has been issued to the workman. Not only this no seniority list as per law was prepared and principle of last come first go was violated by the management at the time of retrenchment of the workman, which also violates Section 25G of the Act.

2. It is also maintained that similar matters have been decided by the Hon'ble Punjab & Haryana High Court vide its judgments dated 7.5.2007 in CWP Nos.3061-64 of 2006, 3069 of 2006,3073-3083 of 2006,3085-3087 of 2006,3090-3137 of 2006 and 3148-3149 of 2006. These judgments of the Hon'ble High Court have been upheld by the Hon'ble Apex Court in the case titled ***Bhakra Beas Management Board Vs. Biri Singh and others etc. in SLP Nos. 16939-17007 of 2007*** vide of orders dated 08.07.2014. Vide order dated 08.07.2014 the Hon'ble Supreme Court has ordered that the matter to be taken up before the Industrial Tribunal. Many of the workmen have already taken up the matters before the learned Central Govt. Industrial Tribunal-cum-Labour Court No.1 and 2 Chandigarh. It may also not be out of context to mention here that the present matter is covered by the Judgment of the Hon'ble Supreme Court in the case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar reported in JT 2014 (10) SC 168***. It is therefore, prayed that the claim petition of the workman may kindly be allowed and retrenchment/discharge order dated 23.09.1977 of the workman be held illegal since workman has already retired in April, 2003, so he may be released consequential benefits till date.

3. Respondents filed written statement, alleging therein that workman is Ex-work charged employee of Beas Construction Board, which was constituted under Section 80(1) of the Re-organization Act. The workman was retrenched after completion of the work of BCB in the year 1970. The workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Irrigation Department Punjab Govt. prior to the re-organization of the erstwhile State of Punjab on 01.11.1966. After re-organization the work of BSL (P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organization Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board (hereinafter called as BMB) constituted under Section 79(1) of the Re-organization Act. It is further stated under Section 80(5) of the Re-organization Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organization Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. Even work-charged employees of the BCB had filed a petition in the Hon'ble Supreme Court of India, titled as ***Jaswant Singh and another Vs. Union of India &Anr., 1979 SCC 440,*** in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the workman is hopelessly time barred and the workman has no legal enforceable right to claim employment in BBMB. It is prayed that claim be dismiss.

4. Parties were given opportunity to lead evidence.

Evidence of workman:

5. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the law officer of management. He also tendered document Ex.WW1/1 Discharge Certificate. AR for workman closed the evidence on behalf of workman on 09.07.2024.

Evidence of respondents:-

6. The respondents have filed affidavit of Er. Dinesh Kumar son of Sh. Hawa Singh, Executive Engineer, Balancing Reservoir Slit Clearance & Plant Design Division, BBMB Sundernagar, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned counsel of workman. AR for respondents closed the evidence on behalf of management on 20.11.2024 and the matter was fixed for arguments.

Submissions of Management:

7. While arguing the case, learned Law Officer for the respondents contended that initially Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Present workman was employed as work charged employee on 08.05.1974 and was retrenched on 23.09.1977. All similar work charged employees including the present workman were engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440*** has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India.

8. So far as the claim of the workman regarding re-employment after retrenchment on 23.09.1977 is concerned, workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial peace and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

> ***"It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."***

9. Because the present workman had not completed 10 years of service so he is not entitled for re-employment. Learned representative for the management further contended that in this case workman was retrenched on 23.09.1977 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his claim is hopelessly time barred as he has filed the present claim petition in the year 2019. To support this view he has placed reliance in the case titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682,*** wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 42 years. He also relied upon the case titled as ***Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018*** where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the Act does not prescribed time limit for referring such dispute. AR for respondents also relied upon the judgment passed by Hon'ble High Court of Himachal Pradesh Shimla in ***CWP No.3057 of 2023 titled as Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others*** and judgment passed by Hon'ble High Court, Madras in ***WP Nos.5556 of 2021 titled as Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others,*** wherein it is stated that as per Section 2-A(3) of the Act, the order should be challenged within 3 years from the date of dismissal, discharge, retrenchment of otherwise termination of service as specified un sub-section (1) of Section 2-A. In the present case workman was engaged with management on 08.05.1974 and was discharged on 23.09.1977 and he has sought re-employment after 42 years which was held to be highly time barred. Thus, he contended that claim of workman is time barred. Workman was discharged on 23.09.1977 and thereafter he filed present claim before the Labour Conciliation Officer.

Submissions of applicant:-

10. While arguing the case, learned AR for the workman contended that in this case workman was discharged on 23.09.1977 illegally and he was issued discharge certificate Ex.WW1/1 by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the Act which provides re-employment of retrenched workman. He further has drawn the attention of the Court towards the statement of the workman. He was required to be adjust in view of Section 25-G of the Act by the management. He was not given any employment. While arguing further, learned AR for the workman referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957 (hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workman and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. She

also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the Act.

Findings:-

11. I have given due consideration to the arguments advanced by the learned AR for the workman and also for the respondents.

12. The management relied upon mainly in this case on the case titled as ***Jaswant Singh and another (supra),*** which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners was employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the Bhakra Nangal Scheme.

13. In respect of these employees, it was held as follow:-

> ***"To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi- permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes."***

14. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

> ***"41.A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.***
>
> ***42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.***
>
> ***43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the pro- visions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.***
>
> ***44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.***
>
> ***45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is***

binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. Jatin Chakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."

15. Thus, from the above observation of Hon'ble Supreme Court it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

16. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi under Section 12 of the Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceedings an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

17. So far as the settlement executed between the work charged employees and management through unions, the same has not been produced by the management despite opportunity was given to file the same. Thus, adverse interference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as ***2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another***, wherein it has been held

"*that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party*."

18. In this case also as per order dated 03.04.2025 of this Tribunal, respondents were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. On 29.04.2025, Mr. Naveen Singla, Law Officer appeared on behalf of respondents and stated that aforesaid settlement is not traceable. It is also added here that in similar decided matters, wherein number of opportunities were given to the respondents to produce the said settlement, however, despite of availing specific directions, the said policy was not produced. Those cases are ID No.247/2005 titled as Dharam Singh Versus BBMB and another, ID No.127/2005 titled as Narpat Ram versus Bhakra Beas Management Board and another and other similar matters. As such adverse inference can be drawn against the management in view of the above law.

19. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follows:-

"Regulation of Services of the workcharged employees.

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be stuck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I fell that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear In mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board has by and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee. Even Himachal Pradesh Government generally followed the Punjab policy. The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government. The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well at the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect. Moreover financial implications and other complications are involved.

In such circumstances stated above, would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture. Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt, what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical

fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

20. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

21. It is specific case of the workman that respondents also appointed fresh workmen, but preference was not given to him, which is in clear violation of section 25-H of the Act. In this regard, it is pointed out that no pointed cross examination has been done by the law officer of the respondents, meaning thereby, the respondents has admitted that they have engaged fresh workmen but preference was not given to the workman.

22. Admittedly, in this case, no effort was made by the respondent to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

77. Maintenance of seniority list of workmen. -*The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*

78. Re-employment of retrenched workmen. - *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefore, to the address given by him at the time of retrenchment or at any time thereafter:*

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:

Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.

23. Moreover, a perusal of cross examination of Er. Dinesh Kumar (MW1) reveals that the workman was never called for re-appointment at any point of time and as per aforesaid Rule 77 & 78, the workman was required to be given notice. Moreover, no explanation has been given that after the retrenchment of the workman, other persons were not recruited by the management, which is in violation of Section 25-H of the Act.

24. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employ them. However, certainly in respect of work-charged employees present Respondent was directed by the Hon'ble Supreme Court in Judgment of ***Jaswant Singh (Supra)*** to

give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employ them. Thus, it does not lie in the mouth of present Respondent that no relief can be granted against present Respondent as petitioners are not their employees.

25. So far as this argument of Ld. AR of the management that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

> ***"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"***
>
> Nothing has come on record that above directions were complied with.

26. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

27. As regard, this contention of learned AR of management that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the BBMB. Moreover, as per respondent Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in ***Jaswant Singh case (supra)*** in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the management that BCB and BBMB are two separate entities is devoid of merit.

28. So far this argument of Law Officer for the respondent that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2018. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of ***Jaswant Singh case (Supra)***. Moreover, limitation was added in Section 2A of the Act in the year 2010 (15.09.2010) and workman was dismissed from service on 23.09.1977 and AR for respondents has failed to bring this fact that the aforesaid provision was retrospective.

29. It is added here that in the present case, the reference was made under clause (d) of sub-section (1) of Section 10 of the Act. It is not case filed under Section 2-A of the Act. Hon'ble Supreme Court of India in case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)*** has held as follow:

> *"42. It is an undisputed fact that the dispute was raised by the workman after he was acquitted in the criminal case which was initiated at the instance of the respondent. Raising the industrial dispute belatedly and getting the same referred from the State Government to the Labour Court is for justifiable reason and the same is supported by law laid down by this Court in Calcutta Dock Labour Board (supra). Even assuming for the sake of the argument that there was a certain delay and latches on the part of the workman in raising the industrial dispute and getting the same referenced for adjudication, the Labour Court is statutorily duty bound to answer the points of dispute referred to it by adjudicating the same on merits of the case and it ought to have moulded the relief appropriately in favour of the workman. That has not been done at all by the Labour Court. Both the learned single Judge as well as the Division Bench of the High Court in its Civil Writ Petition and the Letters Patent Appeal have failed to consider this important aspect of the matter."*

Even Hon'ble Supreme Court in para no.31 of the said judgment has held as follow:

"31. The rejection of the reference by the Labour Court by answering the additional issue no. 2 regarding the delay latches and limitation without adjudicating the points of dispute referred to it on the merits amounts to failure to exercise its statutory power under Section 11A of the Act. Therefore, we have to interfere with the impugned award of the Labour Court and the judgment & order of the High Court as it has erroneously confirmed the award of the Labour Court without examining the relevant provisions of the Act and decisions of this Court referred to supra on the relevant issue regarding the limitation."

30. Hon'ble Supreme Court has also referred in the said case decision of ***Ajaib Singh v. The Sirhind Co-Operative Marketing Cum- Processing Service Society Limited & Anr***.(***AIR 1999 Supreme Court 1351***), wherein, Court has opined that relief cannot be denied to the workman merely on the ground of delay, stating that:-

"10. It follows, therefore, that the provisions of Article 137 of the Schedule to Limitation Act, 1963 are not applicable to the proceedings under the act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the labour court can be generally questioned on the ground of delay alone. Even in a case where the delay in shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/ termination or dismissal.

31. In view of the aforesaid observations of the Hon'ble Supreme Court, the delay was not thus fatal to the case of the appellant. It is also added here that so far as the case ***Ram Chand Vs. The BBMB and another (supra), Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others (supra)*** and ***Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others (supra)*** referred by the AR for respondents are concerned, those cases were filed by the workman under Section 2-A of the Act, which specifically provides limitation of 3 years from the date of dismissal or retrenchment. Section 10(1) of the Act specifically provide that appropriate government may refer any industrial dispute at any time, whereas the same is conspicuously absent in sub-section (3) of Section 2A, which could clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-section (3) of Section 2A. Thus, period of limitation cannot be considered. So far as the case law titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal (supra),*** the same is not attracted to the facts and circumstance of the present case in view of the judgment ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)***, whose relevant paras are reproduced above. Therefore, it cannot be said that case of applicant was beyond limitation.

32. However, it is added that workman in his cross examination has admitted that at the time of retrenchment, he was given out of term notice. He was paid approximately Rs.1120/- and the amount was recorded in the identity card, which was not with him at that time. Moreover, in written statement, stand of the respondents is that the workman was paid all terminal benefits i.e. retrenchment compensation, gratuity and ex-gratia etc. on account of retrenchment from BCB as per provisions of the Act and other relevant laws. So, there is no breach of Section 25 F of the Act.

33. Further, there was non-compliance of ***Jaswant Singh Case (Supra)***, Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employ the workman. The only remedy left is to compensate the workman in term of money.

34. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

i. Work-charged employee who has completed 5 years of service or more shall be entitled for Rs.50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.

ii. Work-charged employee who has completed less than 5 years but more than 1 year would be entitled Rs.25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.

iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

35. The present work charged workman was employed on 08.05.1974 and was retrenched on 23.09.1977 as mentioned in Discharge Certificate (Ex.WW1/1) issued by Sub Divisional Officer, BBMB Sundernagar, and has worked for about 3 years and 4 months (less than 5 years) so he is entitled of Rs.25,000/- along with interest @9% per annum from the date of moving the application till its realization.

36. The reference is answered accordingly and stands disposed of.

37. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 20 जून, 2025

का.आ. 1116.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल**,** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय**, **धनबाद-1,**के पंचाट **(संदर्भ संख्या 103/ 2006)** को प्रकाशित करती है,

[सं. एल-20012/75/2006-आईआर(सी.-I)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 20th June, 2025

S.O. 1116.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 103/2006***)* of **the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of **M/s B.C.C.L.** and **their workmen.**

[No. L-20012/75/2006– IR (C-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 103/2006

Employer in relation to the management of Sijua Area of M/s. BCCL, Dhanbad.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- Sri N.Nath, OS Legal H.Q.

For the workman. :- None.

State : Jharkhand. Industry:-Coal

Dated 06/06/2025

AWARD.

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),Government Of India through the Ministry of Labour, vide its Order No.L-20012/75/2006-(IR(CM-I)) dated 10/11/2006 has been pleased to refer the following dispute between the employer i.e. management of Sijua Area of M/s. BCCL and their workman through Area Secretary, Janta Mazdoor Sangh, Dhanbad for adjudication by this Tribunal:

SCHEDULE

"Whether the demand of the Janta Mazdoor Sangh from the management of Bansdeopur Colliery of M/s. BCCL for regularizing Sh. Sanjit Kumar as Despatch Clerk is justified? If so, to what relief is the concerned workman entitled?"

2. On receiving order no. L-20012/75/2006-(IR(CM-I)) dated 10/11/2006 Government of India, Ministry of Labour,

New Delhi for adjudication of the dispute, Reference case no. 103 of 2006 was registered on 06.12.2006 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. After issuance of notice, none appeared from either side nor any further step was taken on behalf of the workman/union. Not only this, none appeared from the side of the management also though Sri N. Nath (O.S. Legal H.Q) appeared on 06.06.2025 from the side of the employer but the workman never appeared before the Tribunal since 06.12.2006.

4. On perusal of the entire case record it is transpires that the workman never appeared before this Tribunal for a period of 19 years which shows that the workman has no interest in this case and therefore, for the ends of justice, this case deserves to be dismissed for non prosecution.

5. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 20 जून, 2025

का.आ. 1117.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल**,** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, धनबाद-1,**के पंचाट **(संदर्भ संख्या 55/ 2004)** को प्रकाशित करती है,

[सं. एल-20012/25/2004-आईआर(सी.-I)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 20th June, 2025

S.O. 1117.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 55/2004*)* o**f **the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of **M/s B.C.C.L.** and **their workmen.**

[No. L-20012/25/2004– IR (C-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 55/2004

Employer in relation to the management of Govindpur Area-III of M/s. BCCL, Dhanbad.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- Sri Chandramani Kumar, Asstt. Manager (L)

For the workman. :- None.

State : Jharkhand. Industry:-Coal

Dated 06/06/2025

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),Government Of India through the Ministry of Labour, vide its Order No.L-20012/25/2004-IR(C-I) dated 8/16.06.2004 has been pleased to refer the following dispute between the employer i.e. management of Govindpur Area-III of M/s. BCCL and their workman through Area Secretary, Rashtriya Colliery Mazdoor Sangh, Dhanbad for adjudication by this Tribunal:

SCHEDULE

"क्या भा को को लि, गोविंदपुर क्षेत्र-III के प्रबंधतंत्र द्वारा कर्मकार श्री मोती भगत फिटर (मै.) कैट-IV को एक्स.कैट-डी के स्थान पर कैट-ई में नियमित किया जाना उचित एवं न्यायसंगत है ? यदि नहीं तो कर्मकार किस राहत के पात्र हैं तथा किस तारीख से ?"

2. On receiving order no. L-20012/25/2004-IR(C-I) dated 8/16.06.2004 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 55 of 2004 was registered on 28.08.2004 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. After issuance of notice, none appeared from either side nor any further step was taken on behalf of the workman/union. Not only this, none appeared from the side of the management also though Sri Chandramani Kumar, Asstt. Manager (L) appeared on 06.06.2025 from the side of the employer but the workman never appeared before the Tribunal since 28.08.2004.

4. On perusal of the entire case record it is transpires that the workman never appeared before this Tribunal for a period of 21 years which shows that the workman has no interest in this case and therefore, for the ends of justice, this case deserves to be dismissed for non prosecution.

5. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 20 जून, 2025

का.आ. 1118.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **बी.सी.सी.एल,** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, धनबाद-1,** के पंचाट **(संदर्भ संख्या 29/ 2004)** को प्रकाशित करती है,

[सं. एल-20012/265/2003-आईआर(सी-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 20th June, 2025

S.O. 1118.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 29/2004*)*** of **the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of **M/s B.C.C.L.** and **their workmen.**

[No. L-20012/265/2003– IR (C-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 29/2004

Employer in relation to the management of Katras Area of M/s. BCCL, Dhanbad.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- Sri N. Nath. OS. Legal. H.Q

For the workman. :- None.

State : Jharkhand. Industry:-Coal

Dated 06/06/2025

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),Government Of India through the Ministry of Labour, vide its Order No.L-20012/265/2003-IR(C-I) dated 26/03/2004 has been pleased to refer the following dispute between the employer i.e. management of Katras Area of M/s. BCCL and their workman through Vice President, Mazdoor Sangathan Samittee, Dhanbad for adjudication by this Tribunal:

SCHEDULE

"Whether the demand of the Mazdoor Sangathan Samittee from the management of Katras Chaitudih Colliery under Katras Area of M/s BCCL for promotion of Sri Kailash Dusadh in Cat-V in 1985, Cat-VI in 1990 and Foreman (Mech) in Grade-C in 1996 with all consequential benefits is justified? If so, to what relief is the concerned workman entitled?"

2. On receiving order no. L-20012/265/2003-IR(C-I) dated 26/03/2004 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 29 of 2004 was registered on 19.04.2004 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. After issuance of notice, none appeared from either side nor any further step was taken on behalf of the workman/union. Not only this, none appeared from the side of the management also though Sri N. Nath (O.S. Legal H.Q) appeared on 06.06.2025 from the side of the employer but the workman never appeared before the Tribunal since 19.04.2004.

4. On perusal of the entire case record it is transpires that the workman never appeared before this Tribunal for a period of 21 years which shows that the workman has no interest in this case and therefore, for the ends of justice, this case deserves to be dismissed for non prosecution.

5. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 20 जून, 2025

का.आ. 1119.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **बी.सी.सी.एल,** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, धनबाद-1,** के पंचाट **(संदर्भ संख्या 54/ 2007)** को प्रकाशित करती है,

[सं. एल-20012/69/2006-आई.आर.(सी-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 20th June, 2025

S.O. 1119.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 54/2007*)* of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of **M/s B.C.C.L.** and **their workmen.**

[No. L-20012/69/2006– IR (C-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 54/2007

Employer in relation to the management of Sijua Area of M/s. BCCL, Dhanbad.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- Sri N. Nath, OS, Legal H.Q

For the workman. :- None.

State : Jharkhand. Industry:-Coal

Dated 07/06/2025

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),Government Of India through the Ministry of Labour, vide its Order No.L-20012/69/2006-(IR(CM-I)) dated 02/11/2007 has been pleased to refer the following dispute between the employer i.e. management of Sijua Area of M/s. BCCL and their workman through Organising Secretary, Rashtriya Colliery Mazdoor Sangh, Dhanbad for adjudication by this Tribunal:

SCHEDULE

"Whether the action of the management of Sendra Bansjora Colliery of M/s. BCCL in denying regularization as Telephone Operator to Shri Kripanath Mondal, Prop. Mazdoor is justified and legal? If not, to what relief is the concerned workman entitled and from which date?"

2. On receiving order no. L-20012/69/2006-(IR(CM-I)) dated 02/11/2007 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 54 of 2007 was registered on 28.11.2007 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. Even after issuance of notice, none appeared from either side though on 06.06.2025, Sri N. Nath, OS Legal, H.Q of management appeared. The case record shows that after issuance of notice, the workman never appeared before the Tribunal since the year 2007 nor any step was taken on his behalf which makes it clear that the workman has no interest in this case and therefore, this Tribunal is of the opinion that this case deserves to be dismissed for non prosecution.

4. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 20 जून, 2025

का.आ. 1120.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **सी.सी.एल,** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, धनबाद-1,** के पंचाट **(संदर्भ संख्या 68/ 2002)** को प्रकाशित करती है,

[सं. एल-20012/69/2002-आई.आर.(सी-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 20th June, 2025

S.O. 1120.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 68/2002*)*** of **the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of **M/s C.C.L.** and **their workmen.**

[No. L-20012/69/2002– IR (C-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 68/2002

Employer in relation to the management of Project East O.C.P. of M/s. CCL.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- Sri D.K. Verma, Ld. Advocate

For the workman. :- None.

State : Jharkhand. Industry:-Coal

Dated 06/06/2025

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),Government Of India through the Ministry of Labour, vide its Order No.L-20012/69/2002-IR(C-I) dated 15/07/2002 has been pleased to refer the following dispute between the employer i.e. management of Project East O.C.P. of M/s. CCL and their workman namely Kumar Rabinder Prasad for adjudication by this Tribunal:

SCHEDULE

"Whether the action of management of Proj. East O.C.P. of M/s C.C.Ltd. to terminate the services of Shri Kumar Rabinder Prasad, workman on the ground of change of ownership of land is justified? If not, to what relief is the workman concerned entitled?"

2. On receiving order no. L-20012/69/2002-IR(C-I) dated 15/07/2002 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 68 of 2002 was registered on 02.08.2002 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. After issuance of notice, the registered post was returned with remarks "Insufficient Address." and thereafter no further step was taken from the side of the workman whereas Sri Sam Viraj Singh, Manager appeared from the side of the management and filed his letter of authority and later on Sri D.K. Verma, Ld. Advocate appeared but the workman never appeared before the Tribunal since 02.08.2002.

4. On perusal of the entire case record it is transpires that the workman never appeared before this Tribunal for a period of 23 years which shows that the workman has no interest in this case and therefore, for the ends of justice, this case deserves to be dismissed for non prosecution.

5. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 20 जून, 2025

का.आ. 1121.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **बी.सी.सी.एल,** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार आद्योगिक अधिकरण - सह - श्रम न्यायालय, धनबाद-1,** के पंचाट **(संदर्भ संख्या 124/ 2001)** को प्रकाशित करती है,

[सं. एल-20012/21/2001-आई.आर.(सी-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 20th June, 2025

S.O. 1121.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 124/2001***)* of **the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of **M/s B.C.C.L.** and **their workmen.**

[No. L-20012/21/2001– IR (C-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 124/2001

Employer in relation to the management of Katras Area of M/s. BCCL, Dhanbad.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- Sri N. Nath, OS. Legal H.Q

For the workman. :- None.

State : Jharkhand. Industry:-Coal

Dated 06/06/2025

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),Government Of India through the Ministry of Labour, vide its Order No.L-20012/21/2001-C-I dated 22/05/2001 has been pleased to refer the following dispute between the employer i.e. management of Katras Area of M/s. BCCL and their workman through Joint General Secretary, Rashtriya Colliery Mazdoor Sangh, Dhanbad for adjudication by this Tribunal:

SCHEDULE

"Whether the action of management of Keshalpur Colliery of M/s BCCL in dismissing Sri Ram Bachan Gope from the services of the company w.e.f. 28.6.96 is justified? If not, to what relief is the concerned workman entitled?"

2. On receiving order no. L-20012/21/2001-C-I dated 22/05/2001 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 124 of 2001 was registered on 20.06.2001 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. After issuance of notice, the registered post was returned with remarks "always door locked Addressee Left." and thereafter no further step was taken from the side of the workman. Not only this, none appeared from the side of the management also though Sri N. Nath (O.S. Legal H.Q) appeared on 06.06.2025 from the side of the employer but the workman never appeared before the Tribunal since 20.06.2001.

4. On perusal of the entire case record it is transpires that the workman never appeared before this Tribunal for a period of 24 years which shows that the workman has no interest in this case and therefore, for the ends of justice, this case deserves to be dismissed for non prosecution.

5. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 20 जून, 2025

का.आ. 1122.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **बी.सी.सी.एल,** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, धनबाद-1,** के पंचाट **(संदर्भ संख्या 59/ 2003)** को प्रकाशित करती है,

[सं. एल-20012/25/2003-आई.आर.(सी-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 20th June, 2025

S.O. 1122.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 59/2003*)*** of **the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of **M/s B.C.C.L.** and **their workmen.**

[No. L-20012/25/2003– IR (C-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 59/2003

Employer in relation to the management of Bastacolla Area of M/s. BCCL, Dhanbad.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- Sri Manoranjan Kr. Singh, Manager (P)

For the workman. :- None.

State : Jharkhand. Industry:-Coal

Dated 07/06/2025

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),Government Of India through the Ministry of Labour, vide its Order No.L-20012/25/2003-IR(C-I) dated 27/06/2003 has been pleased to refer the following dispute between the employer i.e. management of Bastacolla Area of M/s. BCCL and their workman through Secretary, Bihar Colliery Kamgar Union, Dhanbad for adjudication by this Tribunal:

SCHEDULE

"Whether the action of the management of BCCL, Bera Colliery of Bastacolla Area in dismissing Sri Bal Bhadra Turi from service w.e.f. 14.1.02 is justified? If not, to what relief is the workman entitled?"

2. On receiving order no. L-20012/25/2003-IR(C-I) dated 27/06/2003 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 59 of 2003 was registered on 22.07.2003 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. Even after issuance of notice, none appeared from either side though on 06.06.2025, Sri Manoranjan Kr. Singh, Manager (P) of management appeared. The case record shows that after issuance of notice, the workman never appeared before the Tribunal since the year 2003 nor any step was taken on his behalf which makes it clear that the workman has no interest in this case and therefore, this Tribunal is of the opinion that this case deserves to be dismissed for non prosecution.

4. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 20 जून, 2025

का.आ. 1123.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **बी.सी.सी.एल,** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, धनबाद-1,** के पंचाट **(संदर्भ संख्या 30/ 2007)** को प्रकाशित करती है,

[सं. एल-20012/40/2005-आई.आर.(सी-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 20th June, 2025

S.O. 1123.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 30/2007*)*** of **the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of **M/s B.C.C.L.** and **their workmen.**

[No. L-20012/40/2005– IR (C-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 30/2007

Employer in relation to the management of Block-II Area of M/s. BCCL, Dhanbad.

AND.

Their workman.

Present: Shri Sachindra Kumar Pandey

Presiding Officer

Appearances:

For the Employers :- Sri D.K. Verma, Ld. Advocate.

For the workman. :- None.

State : Jharkhand. Industry:-Coal

Dated 06/06/2025

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),Government Of India through the Ministry of Labour, vide its Order No.L-20012/40/2005-(IR(CM-I)) dated 21/31.05.2007 has been pleased to refer the following dispute between the employer i.e. management of Block-II Area of M/s. BCCL and their workman through Jt. General Secretary, Rashtriya Colliery Mazdoor Congress, Dhanbad for adjudication by this Tribunal:

SCHEDULE

"Whether the action the Management of Block-II Area of M/s BCCL in not paying overtime for the period 11.9.99 to 11.10.99 to Shri Roshan Mahato, Driver is justified and legal? If not, to what relief is the concerned workman entitled?"

2. On receiving order no. L-20012/40/2005-(IR(CM-I)) dated 21/31.05.2007 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 30 of 2007 was registered on 03.07.2007 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. After issuance of notice, the registered post was returned with remarks "Addressee moved" and thereafter no further step was taken by the workman whereas Sri D.K. Verma, Ld. Advocate appeared from the side of the management but the workman never appeared before the Tribunal since 03.07.2007.

4. On perusal of the entire case record it is transpires that the workman never appeared before this Tribunal for a period of 18 years which shows that the workman has no interest in this case and therefore, for the ends of justice, this case deserves to be dismissed for non prosecution.

5. Hence,

ORDERED

that this case is hereby dismissed and a "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1124.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **बीबीएमबी** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नंबर** 2, **चंडीगढ़** के पंचाट (संदर्भ संख्या 01/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/06/2025 को प्राप्त हुआ था।

[सं. एल-23012/76/2018-आई.आर.(सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1124.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No.01/2019*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court NO 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19*/06/2025.***

[No. L-23012/76/2018– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Mr. Kamal Kant, Presiding Officer.

ID No.01/2019
Registered on:- 20.02.2019

Sh. Chet Ram S/o Sh. Gokal Ram, R/o Village Rouna, PO Jagatkhana, Tehsil Naina Devi, Distt. Bilaspur, Himachal Pradesh.

……....Workman

Versus

1. The Chairman, Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board, BSL Project, Sundernagar-175038.

…..Respondents

Present:- Mr. S C Gupta, AR for workman.
Sh. Naveen Singla, Law Officer for respondent no.1 & 2.

Award
Passed on:-01.05.2025

Central Government vide Notification No.L-23012/76/2018-IR(CM-II) dated 04.02.2019 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called as the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of management of BBMB in not accepting the demand of Shri Chet Ram S/o Sh. Gokal Ram, for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?

1. The brief facts, related to the case are that the construction of Beas Sutluj Link Project {hereinafter called as BSL(P)} started in the year 1962 under Beas Control Board, which was constituted on 10.02.1961 with its headquarter at Sundernagar. After passing of Pb. Re-Organization Act, 1966 (hereinafter called "Re-Organization Act") Beas Control Board was replaced by Beas Construction Board (hereinafter called "BCB"). The workman was employed by BSL Project, Sundernagar on 28.10.1973. The workman who was employed in Beas Project (Unit-1) become the employee of Bhakra Beas Management Board (hereinafter called as BBMB) in pursuance of proviso (1) of Section 80(3) and Section 80(5) of Re-organization Act and the workman become the employee of the Centre Government under the management of B.B.M.B. from 15.05.1976. The workmen of this project were considered as the employees of the Central Government by the Hon'ble Supreme Court in case titled as ***Jaswant Singh and others Versus Union of India and others (AIR 1980 Supreme Court page 115)***. The workman has completed 240 days in every calendar year and was not interrupted till his retrenchment. The employer made a bulk retrenchment of project employees in the year 1977 and 1978 and also in stages thereafter till 1984. The workman was also retrenched by the employer on 24.10.1977 and copy of discharge certificate was issued by the office of Sub Divisional Officer, BBMB Sundernagar in accordance with provision of the Act. After the retrenchment of the workman, thousands of other persons were appointed secretly by employer, violating Section 25-G, Section 25-H, Rule 77 & 78 of the I.D. Act, 1947. The BSL Project is an industrial establishment as per Section 25 L of the Act. This action of the management also violates the directions of Hon'ble Supreme Court as mentioned in Para 40 of the case of ***Jaswant Singh (supra)***. No notice as per Rule 78 of the Industrial Disputes (Central) Rules, 1957, which is statutory requirement, has been issued to the workman. Not only this no seniority list as per law was prepared and principle of last come first go was violated by the management at the time of retrenchment of the workman, which also violates Section 25G of the Act.

2. It is also maintained that similar matters have been decided by the Hon'ble Punjab & Haryana High Court vide its judgments dated 7.5.2007 in CWP Nos.3061-64 of 2006, 3069 of 2006,3073-3083 of 2006,3085-3087 of 2006,3090-3137 of 2006 and 3148-3149 of 2006. These judgments of the Hon'ble High Court have been upheld by the Hon'ble Apex Court in the case titled ***Bhakra Beas Management Board Vs. Biri Singh and others etc. in SLP Nos. 16939-17007 of 2007*** vide of orders dated 08.07.2014. Vide order dated 08.07.2014 the Hon'ble Supreme Court has ordered that the matter to be taken up before the Industrial Tribunal. Many of the workmen have already taken up the matters before the learned Central Govt. Industrial Tribunal-cum-Labour Court No.1 and 2 Chandigarh. It may also not be out of context to mention here that the present matter is covered by the Judgment of the Hon'ble Supreme Court in the case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar reported in JT 2014 (10) SC 168***. It is therefore, prayed that the claim petition of the workman may kindly be allowed and retrenchment/discharge order dated 24.10.1977 of the workman be held illegal since workman has already retired in March 2013, so he may be released consequential benefits till date.

3. Respondents filed written statement, alleging therein that workman is Ex-work charged employee of Beas Construction Board, which was constituted under Section 80(1) of the Re-organization Act. The workman was

retrenched after completion/part completion of the work of BCB in accordance with the provisions of the Act and settlement in this behalf. The workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Irrigation Department Punjab Govt. prior to the re-organization of the erstwhile State of Punjab on 01.11.1966. After re-organization the work of BSL (P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organization Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board (hereinafter called as BMB) constituted under Section 79(1) of the Re-organization Act. It is further stated under Section 80(5) of the Re-organization Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organization Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. Even work-charged employees of the BCB had filed a petition in the Hon'ble Supreme Court of India, titled as ***Jaswant Singh and another Vs. Union of India &Anr., 1979 SCC 440,*** in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the workman is hopelessly time barred and the workman has no legal enforceable right to claim employment in BBMB. It is prayed that claim be dismiss.

4. A rejoinder was also filed by workman contravening the facts taken in written statement as reiterating the facts as stated in claim petition.

5. Parties were given opportunity to lead evidence.

Evidence of workman:

6. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the law officer of management. He also tendered document Ex.WW1/1 Discharge Certificate. AR for workman closed the evidence on behalf of workman on 09.07.2024.

Evidence of respondents:-

7. The respondents have filed affidavit of Er. Dinesh Kumar son of Sh. Hawa Singh, Executive Engineer, Balancing Reservoir Slit Clearance & Plant Design Division, BBMB Sundernagar, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned counsel of workman. He also tendered document Ex.MW1/ Service record of workman. AR for respondent no.1 & 2 closed the evidence on behalf of management on 28.01.2025 and the matter was fixed for arguments.

Submissions of Management:

8. While arguing the case, learned Law Officer for the respondents contended that initially Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Present workman was employed as work charged employee on 28.10.1973 and was retrenched on 24.10.1977. All similar work charged employees including the present workman were engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440*** has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India.

9. So far as the claim of the workman regarding re-employment after retrenchment on 24.10.1977 is concerned, workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial peace and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

> ***"It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years'***

continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."

10. Because the present workman had not completed 10 years of service so he is not entitled for re-employment. Learned representative for the management further contended that in this case workman was retrenched on 24.10.1977 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his claim is hopelessly time barred as he has filed the present claim petition in the year 2019. To support this view he has placed reliance in the case titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682,*** wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 32 years. He also relied upon the case titled as ***Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018*** where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the Act does not prescribed time limit for referring such dispute. AR for respondents also relied upon the judgment passed by Hon'ble High Court of Himachal Pradesh Shimla in ***CWP No.3057 of 2023 titled as Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others*** and judgment passed by Hon'ble High Court, Madras in ***WP Nos.5556 of 2021 titled as Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others,*** wherein it is stated that as per Section 2-A(3) of the Act, the order should be challenged within 3 years from the date of dismissal, discharge, retrenchment of otherwise termination of service as specified un sub-section (1) of Section 2-A. In the present case workman was engaged with management on 28.10.1973 and was discharged on 24.10.1977 and he has sought re-employment after 32 years which was held to be highly time barred. Thus, he contended that claim of workman is time barred. Workman was discharged on 24.10.1977 and thereafter he filed present claim before the Labour Conciliation Officer.

Submissions of applicant:-

11. While arguing the case, learned AR for the workman contended that in this case workman was discharged on 24.10.1977 illegally and he was issued discharge certificate WW1/1 by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the Act which provides re-employment of retrenched workman. He further has drawn the attention of the Court towards the statement of the workman. He was required to be adjust in view of Section 25-G of the Act by the management. He was not given any employment. While arguing further, learned AR for the workman referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957 (hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workman and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. She also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the Act.

Findings:-

12. I have given due consideration to the arguments advanced by the learned AR for the workman and also for the respondents.

13. The management relied upon mainly in this case on the case titled as ***Jaswant Singh and another (supra),*** which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners was employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the Bhakra Nangal Scheme.

14. In respect of these employees, it was held as follow:-

"To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi-permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the

guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes."

15. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

"41.A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.

42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.

43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the pro- visions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.

44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.

45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. Jatin Chakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."

16. Thus, from the above observation of Hon'ble Supreme Court it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

17. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi under Section 12 of the Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceedings an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

18. So far as the settlement executed between the work charged employees and management through unions, the same has not been produced by the management despite opportunity was given to file the same. Thus, adverse interference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as ***2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another,*** wherein it has been held

> **"*that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party*."**

19. In this case also as per order dated 03.04.2025 of this Tribunal, respondents were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. On 29.04.2025, Mr. Naveen Singla, Law Officer appeared on behalf of respondents and stated that aforesaid settlement is not traceable. It is also added here that in similar decided matters, wherein number of opportunities were given to the respondents to produce the said settlement, however, despite of availing specific directions, the said policy was not produced. Those cases are ID No.247/2005 titled as Dharam Singh Versus BBMB and another, ID No.127/2005 titled as Narpat Ram versus Bhakra Beas Management Board and another and other similar matters. As such adverse inference can be drawn against the management in view of the above law.

20. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follows:-

> **"Regulation of Services of the workcharged employees.**
>
> ***It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.***

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be stuck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I fell that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear In mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board has by and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee. Even Himachal Pradesh Government generally followed the Punjab policy. The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government. The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well at the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect. Moreover financial implications and other complications are involved.

In such circumstances stated above, would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture. Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt, what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

21. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

22. It is specific case of the workman that respondents also appointed fresh workmen, but preference was not given to him, which is in clear violation of section 25-H of the Act. In this regard, it is pointed out that no pointed cross examination has been done by the law officer of the respondents, meaning thereby, the respondents has admitted that they have engaged fresh workmen but preference was not given to the workman.

23. Admittedly, in this case, no effort was made by the respondent to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

> ***77. Maintenance of seniority list of workmen***. *-The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*
>
> ***78. Re-employment of retrenched workmen. -*** *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefore, to the address given by him at the time of retrenchment or at any time thereafter:*
> *Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:*
> *Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:*
> *Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]*
> *(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:*
> *Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.*

24. Moreover, a perusal of cross examination of Er. Dinesh Kumar (MW1) reveals that the workman was never called for re-appointment at any point of time and as per aforesaid Rule 77 & 78, the workman was required to be given notice. Moreover, no explanation has been given that after the retrenchment of the workman, other persons were not recruited by the management, which is in violation of Section 25-H of the Act.

25. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employ them. However, certainly in respect of work-charged employees present Respondent was directed by the Hon'ble Supreme Court in Judgment of ***Jaswant Singh (Supra)*** to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employ them. Thus, it does not lie in the mouth of present Respondent that no relief can be granted against present Respondent as petitioners are not their employees.

26. So far as this argument of Ld. AR of the management that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

> ***"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"***

Nothing has come on record that above directions were complied with.

27. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and

has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

28. As regard, this contention of learned AR of management that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the BBMB. Moreover, as per respondent Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in ***Jaswant Singh case (supra)*** in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the management that BCB and BBMB are two separate entities is devoid of merit.

29. So far this argument of Law Officer for the respondents that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2019. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of ***Jaswant Singh case (Supra)***. Moreover, limitation was added in Section 2A of the Act in the year 2010 (15.09.2010) and workman was dismissed from service on 24.10.1977 and AR for respondents has failed to bring this fact that the aforesaid provision was retrospective.

30. It is added here that in the present case, the reference was made under clause (d) of sub-section (1) of Section 10 of the Act. It is not case filed under Section 2-A of the Act. Hon'ble Supreme Court of India in case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)*** has held as follow:

> *"42. It is an undisputed fact that the dispute was raised by the workman after he was acquitted in the criminal case which was initiated at the instance of the respondent. Raising the industrial dispute belatedly and getting the same referred from the State Government to the Labour Court is for justifiable reason and the same is supported by law laid down by this Court in Calcutta Dock Labour Board (supra). Even assuming for the sake of the argument that there was a certain delay and latches on the part of the workman in raising the industrial dispute and getting the same referenced for adjudication, the Labour Court is statutorily duty bound to answer the points of dispute referred to it by adjudicating the same on merits of the case and it ought to have moulded the relief appropriately in favour of the workman. That has not been done at all by the Labour Court. Both the learned single Judge as well as the Division Bench of the High Court in its Civil Writ Petition and the Letters Patent Appeal have failed to consider this important aspect of the matter."*

Even Hon'ble Supreme Court in para no.31 of the said judgment has held as follow:

> *"31. The rejection of the reference by the Labour Court by answering the additional issue no. 2 regarding the delay latches and limitation without adjudicating the points of dispute referred to it on the merits amounts to failure to exercise its statutory power under Section 11A of the Act. Therefore, we have to interfere with the impugned award of the Labour Court and the judgment & order of the High Court as it has erroneously confirmed the award of the Labour Court without examining the relevant provisions of the Act and decisions of this Court referred to supra on the relevant issue regarding the limitation."*

31. Hon'ble Supreme Court has also referred in the said case decision of ***Ajaib Singh v. The Sirhind Co-Operative Marketing Cum- Processing Service Society Limited & Anr***.(***AIR 1999 Supreme Court 1351***), wherein, Court has opined that relief cannot be denied to the workman merely on the ground of delay, stating that:-

> *"10. It follows, therefore, that the provisions of Article 137 of the Schedule to Limitation Act, 1963 are not applicable to the proceedings under the act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the labour court can be generally questioned on the ground of delay alone. Even in a case where the delay in shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/ termination or dismissal.*

32. In view of the aforesaid observations of the Hon'ble Supreme Court, the delay was not thus fatal to the case of the appellant. It is also added here that so far as the case ***Ram Chand Vs. The BBMB and another (supra), Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others (supra)*** and ***Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others (supra)*** referred by the AR for respondents are concerned, those cases were filed by the workman under Section 2-A of the Act, which specifically provides limitation of 3 years from the date of dismissal or retrenchment. Section 10(1) of the Act specifically provide that appropriate government may refer any industrial dispute at any time, whereas the same is conspicuously absent in sub-section (3) of Section 2A, which could clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-section (3) of Section 2A. Thus, period of limitation cannot be considered. So far as the case law titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal (supra),*** the same is not attracted to the facts and circumstance of the present case in view of the judgment ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)***, whose relevant paras are reproduced above. Therefore, it cannot be said that case of applicant was beyond limitation.

33. However, it is added that workman in his cross examination has admitted that prior to retrenchment, notice was served upon him and he was paid less amount on account of retrenchment by the management. Moreover, in written statement, stand of the respondents is that the workman was paid all terminal benefits i.e. retrenchment compensation, gratuity and ex-gratia etc. on account of retrenchment from BCB as per provisions of the Act and other relevant laws. So, there is no breach of Section 25 F of the Act.

34. Further, there was non-compliance of ***Jaswant Singh Case (Supra)***, Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employ the workman. The only remedy left is to compensate the workman in term of money.

35. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

i. Work-charged employee who has completed 5 years of service or more shall be entitled for Rs.50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.

ii. Work-charged employee who has completed less than 5 years but more than 1 year would be entitled Rs.25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.

iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

36. The present work charged workman was employed on 28.10.1973 and was retrenched on 24.10.1977 as mentioned in Discharge Certificate (Ex.W2) issued by Sub Divisional Officer, BBMB Sundernagar, and has worked for about 4 years approx (less than 5 years) so he is entitled of Rs.25,000/- along with interest @9% per annum from the date of moving the application till its realization.

37. The reference is answered accordingly and stands disposed off.

38. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 19 जून, 2025

का.आ. 1125.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **बीबीएमबी** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नंबर 2, चंडीगढ़** के पंचाट **(संदर्भ संख्या 88/2018)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **19/06/2025** को प्राप्त हुआ था।

[सं. एल-23012/118/2018-आई.आर.(सी.एम -II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 19th June, 2025

S.O. 1125.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No.88/2018)** of t**he Central Government Industrial Tribunal-cum-**

Labour Court NO 2, Chandigarh as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **19*/06/2025*.**

[No. L-23012/118/2018– IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.
Present: Mr. Kamal Kant, Presiding Officer.

ID No.88/2018
Registered on:- 11.12.2018

Piar Singh son of Shri Megh Singh, Resident of Village Kashal, PO Morsinghi, Tehsil Ghumarwin, Distt. Bilaspur, Himachal Pradesh-174001

…….....Workman

Versus

1. The Chairman, Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board, BSL Project, Sundernagar-175038.

…..Respondents/Managements

Present:- Mr. S C Gupta, AR for workman.
Mr. Naveen Singla, AR for respondents.

Award
Passed on:- 02.05.2025

Central Government vide Notification No.L-23012/118/2018-IR(CM-II) dated 16.11.2018 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> **"Whether the action of management of BBMB in not accepting the demand of Shri Piar Singh S/o Sh. Megh Singh for deeming/considering him in continuous service upto age of superannuation and resultantly entitled for consequential benefits is legal, just and valid? If not, to what relief the workman concerned is entitled to and from which date?**

1. The brief facts, related to the case are that the construction of Beas Sutluj Link Project {hereinafter called as BSL(P)} started in the year 1962 under Beas Control Board, which was constituted on 10.02.1961 with its headquarter at Sundernagar. After passing of Pb. Re-Organization Act, 1966 (hereinafter called "Re-Organization Act") Beas Control Board was replaced by Beas Construction Board (hereinafter called "BCB"). The workman was employed by BSL Project, Sundernagar in the year 1974. The workman who was employed in Beas Project (Unit-1) become the employee of Bhakra Beas Management Board (hereinafter called as BBMB) in pursuance of proviso (1) of Section 80(3) and Section 80(5) of Re-organization Act and the workman become the employee of the Centre Government under the management of B.B.M.B. from 15.05.1976. The workmen of this project were considered as the employees of the Central Government by the Hon'ble Supreme Court in case titled as ***Jaswant Singh and others Versus Union of India and others (AIR 1980 Supreme Court page 115)***. The workman has completed 240 days in every calendar year and was not interrupted till his retrenchment. The employer made a bulk retrenchment of project employees in the year 1977 and 1978 and also in stages thereafter till 1984. The workman was also retrenched by the employer on 31.03.1977 and discharge certificate was issued by the office of Sub Divisional Officer, BBMB Sundernagar in accordance with provision of the Act. After the retrenchment of the workman, thousands of other persons were appointed secretly by employer, violating Section 25-G, Section 25-H, Rule 77 & 78 of the I.D. Act, 1947. The BSL Project is an industrial establishment as per Section 25 L of the Act. This action of the management also violates the directions of Hon'ble Supreme Court as mentioned in Para 40 of the case of ***Jaswant Singh (supra)***. No notice as per Rule 78 of the Industrial Disputes (Central) Rules, 1957, which is statutory requirement, has been issued to the workman. Not only this no seniority list as per law was prepared and principle of last come first go was violated by the management at the time of retrenchment of the workman, which also violates Section 25G of the Act.

2. It is also maintained that similar matters have been decided by the Hon'ble Punjab & Haryana High Court vide its judgments dated 7.5.2007 in CWP Nos.3061-64 of 2006, 3069 of 2006,3073-3083 of 2006,3085-3087 of 2006,3090-3137 of 2006 and 3148-3149 of 2006. These judgments of the Hon'ble High Court have been upheld by

the Hon'ble Apex Court in the case titled ***Bhakra Beas Management Board Vs. Biri Singh and others etc. in SLP Nos. 16939-17007 of 2007*** vide of orders dated 08.07.2014. Vide order dated 08.07.2014 the Hon'ble Supreme Court has ordered that the matter to be taken up before the Industrial Tribunal. Many of the workmen have already taken up the matters before the learned Central Govt. Industrial Tribunal-cum-Labour Court No.1 and 2 Chandigarh. It may also not be out of context to mention here that the present matter is covered by the Judgment of the Hon'ble Supreme Court in the case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar reported in JT 2014 (10) SC 168***. It is therefore, prayed that the claim petition of the workman may kindly be allowed and retrenchment/discharge order dated 31.03.1977 of the workman be held illegal since workman has already retired in the year 2015, so he may be released consequential benefits till date.

3. Respondents filed written statement, alleging therein that workman is Ex-work charged employee of Beas Construction Board, which was constituted under Section 80(1) of the Re-organization Act. The workman was retrenched after completion of the work of BCB in the year 1970. The workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Irrigation Department Punjab Govt. prior to the re-organization of the erstwhile State of Punjab on 01.11.1966. After re-organization the work of BSL (P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organization Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board (hereinafter called as BMB) constituted under Section 79(1) of the Re-organization Act. It is further stated under Section 80(5) of the Re-organization Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organization Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. Even work-charged employees of the BCB had filed a petition in the Hon'ble Supreme Court of India, titled as ***Jaswant Singh and another Vs. Union of India &Anr., 1979 SCC 440,*** in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the workman is hopelessly time barred and the workman has no legal enforceable right to claim employment in BBMB. It is prayed that claim be dismiss.

4. A rejoinder was also filed by workman contravening the facts taken in written statement as reiterating the facts as stated in claim petition.

5. Parties were given opportunity to lead evidence.

Evidence of workman:

6. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.W1 and has been cross-examined by the law officer of management. He also tendered document Ex.W2 Discharge Certificate. AR for workman closed the evidence on behalf of workman on 26.04.2023.

Evidence of respondents:-

7. The respondents have filed affidavit of Er. Dinesh Kumar son of Sh. Hawa Singh, Executive Engineer, Balancing Reservoir Slit Clearance & Plant Design Division, BBMB Sundernagar, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned counsel of workman. AR for respondents closed the evidence on behalf of management on 28.01.2025 and the matter was fixed for arguments.

Submissions of Management:

8. While arguing the case, learned Law Officer for the respondents contended that initially Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Present workman was employed as work charged employee in the year 1974 and was retrenched on 31.03.1977. All similar work charged employees including the present workman were engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440*** has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India.

9. So far as the claim of the workman regarding re-employment after retrenchment on 31.03.1977 is concerned, workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial peace and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

> ***"It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."***

10. Because the present workman had not completed 10 years of service so he is not entitled for re-employment. Learned representative for the management further contended that in this case workman was retrenched on 31.03.1977 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his claim is hopelessly time barred as he has filed the present claim petition in the year 2018. To support this view he has placed reliance in the case titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682,*** wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 40 years. He also relied upon the case titled as ***Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018*** where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the Act does not prescribed time limit for referring such dispute. AR for respondents also relied upon the judgment passed by Hon'ble High Court of Himachal Pradesh Shimla in ***CWP No.3057 of 2023 titled as Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others*** and judgment passed by Hon'ble High Court, Madras in ***WP Nos.5556 of 2021 titled as Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others,*** wherein it is stated that as per Section 2-A(3) of the Act, the order should be challenged within 3 years from the date of dismissal, discharge, retrenchment of otherwise termination of service as specified un sub-section (1) of Section 2-A. In the present case workman was engaged with management in the year 1974 and was discharged on 31.03.1977 and he has sought re-employment after 40 years which was held to be highly time barred. Thus, he contended that claim of workman is time barred. Workman was discharged on 31.03.1977 and thereafter he filed present claim before the Labour Conciliation Officer.

Submissions of applicant:-

11. While arguing the case, learned AR for the workman contended that in this case workman was discharged on 31.03.1977 illegally and he was issued discharge certificate Ex.W2 by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the Act which provides re-employment of retrenched workman. He further has drawn the attention of the Court towards the statement of the workman. He was required to be adjust in view of Section 25-G of the Act by the management. He was not given any employment. While arguing further, learned AR for the workman referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957 (hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workman and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. She also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the Act.

Findings:-

12. I have given due consideration to the arguments advanced by the learned AR for the workman and also for the respondents.

13. The management relied upon mainly in this case on the case titled as ***Jaswant Singh and another (supra),*** which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners was employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the Bhakra Nangal Scheme.

14. In respect of these employees, it was held as follow:-

"To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi-permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes."

15. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

"41.A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.

42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.

43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the pro- visions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.

44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.

45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. Jatin Chakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."

16. Thus, from the above observation of Hon'ble Supreme Court it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

17. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi under Section 12 of the Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceedings an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

18. So far as the settlement executed between the work charged employees and management through unions, the same has not been produced by the management despite opportunity was given to file the same. Thus, adverse interference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as ***2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another,*** wherein it has been held

"*that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party*."

19. In this case also as per order dated 03.04.2025 of this Tribunal, respondents were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. On 29.04.2025, Mr. Naveen Singla, Law Officer appeared on behalf of respondents and stated that aforesaid settlement is not traceable. It is also added here that in similar decided matters, wherein number of opportunities were given to the respondents to produce the said settlement, however, despite of availing specific directions, the said policy was not produced. Those cases are ID No.247/2005 titled as Dharam Singh Versus BBMB and another, ID No.127/2005 titled as Narpat Ram versus Bhakra Beas Management Board and another and other similar matters. As such adverse inference can be drawn against the management in view of the above law.

20. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follows:-

"Regulation of Services of the workcharged employees.

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10

years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be stuck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I fell that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear In mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board has by and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee. Even Himachal Pradesh Government generally followed the Punjab policy. The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government. The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well at the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect. Moreover financial implications and other complications are involved.

In such circumstances stated above, would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture. Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt, what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work

whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

21. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

22. It is specific case of the workman that respondents also appointed fresh workmen, but preference was not given to him, which is in clear violation of section 25-H of the Act. In this regard, it is pointed out that no pointed cross examination has been done by the law officer of the respondents, meaning thereby, the respondents has admitted that they have engaged fresh workmen but preference was not given to the workman.

23. Admittedly, in this case, no effort was made by the respondent to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

77. Maintenance of seniority list of workmen. *-The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*

78. Re-employment of retrenched workmen. - *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefore, to the address given by him at the time of retrenchment or at any time thereafter:*

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:

Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.

24. Moreover, a perusal of cross examination of Er. Dinesh Kumar (MW1) reveals that the workman was never called for re-appointment at any point of time and as per aforesaid Rule 77 & 78, the workman was required to be given notice. Moreover, no explanation has been given that after the retrenchment of the workman, other persons were not recruited by the management, which is in violation of Section 25-H of the Act.

25. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employ them. However, certainly in respect of work-charged employees present Respondent was directed by the Hon'ble Supreme Court in Judgment of ***Jaswant Singh (Supra)*** to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employ them. Thus, it does not lie in the mouth of present Respondent that no relief can be granted against present Respondent as petitioners are not their employees.

A. So far as this argument of Ld. AR of the management that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

> ***"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"***

Nothing has come on record that above directions were complied with.

26. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

27. As regard, this contention of learned AR of management that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the BBMB. Moreover, as per respondent Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organization Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organization Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in ***Jaswant Singh case (supra)*** in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the management that BCB and BBMB are two separate entities is devoid of merit.

28. So far this argument of Law Officer for the respondent that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2018. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of ***Jaswant Singh case (Supra)***. Moreover, limitation was added in Section 2A of the Act in the year 2010 (15.09.2010) and workman was dismissed from service on 31.03.1977 and AR for respondents has failed to bring this fact that the aforesaid provision was retrospective.

29. It is added here that in the present case, the reference was made under clause (d) of sub-section (1) of Section 10 of the Act. It is not case filed under Section 2-A of the Act. Hon'ble Supreme Court of India in case titled as ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)*** has held as follow:

> *"42. It is an undisputed fact that the dispute was raised by the workman after he was acquitted in the criminal case which was initiated at the instance of the respondent. Raising the industrial dispute belatedly and getting the same referred from the State Government to the Labour Court is for justifiable reason and the same is supported by law laid down by this Court in Calcutta Dock Labour Board (supra). Even assuming for the sake of the argument that there was a certain delay and latches on the part of the workman in raising the industrial dispute and getting the same referenced for adjudication, the Labour Court is statutorily duty bound to answer the points of dispute referred to it by adjudicating the same on merits of the case and it ought to have moulded the relief appropriately in favour of the workman. That has not been done at all by the Labour Court. Both the learned single Judge as well as the Division Bench of the High Court in its Civil Writ Petition and the Letters Patent Appeal have failed to consider this important aspect of the matter."*

Even Hon'ble Supreme Court in para no.31 of the said judgment has held as follow:

> *"31. The rejection of the reference by the Labour Court by answering the additional issue no. 2 regarding the delay latches and limitation without adjudicating the points of dispute referred to it on the merits amounts to failure to exercise its statutory power under Section 11A of the Act. Therefore, we have to interfere with the impugned award of the Labour Court and the judgment & order of the High Court as it has*

erroneously confirmed the award of the Labour Court without examining the relevant provisions of the Act and decisions of this Court referred to supra on the relevant issue regarding the limitation."

30. Hon'ble Supreme Court has also referred in the said case decision of ***Ajaib Singh v. The Sirhind Co-Operative Marketing Cum- Processing Service Society Limited & Anr***.(***AIR 1999 Supreme Court 1351***), wherein, Court has opined that relief cannot be denied to the workman merely on the ground of delay, stating that:-

"10. It follows, therefore, that the provisions of Article 137 of the Schedule to Limitation Act, 1963 are not applicable to the proceedings under the act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the labour court can be generally questioned on the ground of delay alone. Even in a case where the delay in shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/ termination or dismissal.

31. In view of the aforesaid observations of the Hon'ble Supreme Court, the delay was not thus fatal to the case of the appellant. It is also added here that so far as the case ***Ram Chand Vs. The BBMB and another (supra), Ghunghriya Ram versus Himachal Pradesh State Electricity Board Limited and others (supra)*** and ***Mr. D Poomaran versus The General Manager, Bharat Petorloum Corporation Ltd. and others (supra)*** referred by the AR for respondents are concerned, those cases were filed by the workman under Section 2-A of the Act, which specifically provides limitation of 3 years from the date of dismissal or retrenchment. Section 10(1) of the Act specifically provide that appropriate government may refer any industrial dispute at any time, whereas the same is conspicuously absent in sub-section (3) of Section 2A, which could clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-section (3) of Section 2A. Thus, period of limitation cannot be considered. So far as the case law titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal (supra),*** the same is not attracted to the facts and circumstance of the present case in view of the judgment ***Raghubir Singh V/s General Manager, Haryana Roadways, Hissar (supra)***, whose relevant paras are reproduced above. Therefore, it cannot be said that case of applicant was beyond limitation.

32. However, it is added that workman in his cross examination has admitted that prior to retrenchment, notice was served upon him and he was paid less amount on account of retrenchment by the management. Moreover, in written statement, stand of the respondents is that the workman was paid all terminal benefits i.e. retrenchment compensation, gratuity and ex-gratia etc. on account of retrenchment from BCB as per provisions of the Act and other relevant laws. So, there is no breach of Section 25 F of the Act.

33. Further, there was non-compliance of ***Jaswant Singh Case (Supra)***, Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employ the workman. The only remedy left is to compensate the workman in term of money.

34. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

i. Work-charged employee who has completed 5 years of service or more shall be entitled for Rs.50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.

ii. Work-charged employee who has completed less than 5 years but more than 1 year would be entitled Rs.25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.

iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

35. The present work charged workman was employed in the year 1974 and was retrenched on 31.03.1977 as mentioned in Discharge Certificate (Ex.W2) issued by Sub Divisional Officer, BBMB Sundernagar, and has worked for about 3 years (less than 5 years) so he is entitled of Rs.25,000/- along with interest @9% per annum from the date of moving the application till its realization.

36. The reference is answered accordingly and stands disposed of.

37. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 20 जून, 2025

का.आ. 1126.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टिस्को लिमिटेड, के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, धनबाद-1**, के पंचाट (**संदर्भ संख्या 58/ 1999**) को प्रकाशित करती है,

[सं. एल-20012/772/1997-आई.आर.(सी-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 20th June, 2025

S.O. 1126.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 58/1999*)*** of **the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of **M/s TISCO Ltd,** and **their workmen.**

[No. L-20012/772/1997– IR (C-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2,DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 58/1999

Employer in relation to the management of Sijua Colliery of M/s. TISCO Ltd..

AND.

Their workman.

Present: **Shri Dinesh Kumar Singh**

Presiding Officer/Link Officer

Appearances:

For the Employers :- Sri D.K. Verma, Ld. Advocate.

For the workman. :- None.

State : Jharkhand. Industry:- Coal

Dated 15/04 /2025

AWARD

By Order No.L-20012/772/1997-IR(C-I) dated 18/01/1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Sijua Colliery of M/s TISCO in not providing employment to Sh. Ajay Kumar Singh, the adopted son of Late Rajkumar Singh, Ex-watchman on compassionate ground is legal and justified? If not, to what relief Sh. Ajay Kumar Singh, the adopted son of Late Rajkumar Singh is entitled?"

2. This reference is received on 10/02/1999 by this Tribunal in which the Vice President, Mazdoor Sangathan Samiti, Dhanbad had been advised to submit statement of claim alongwith relevant document before the Tribunal within fifteen days of receipt of the reference and workman/union submit his statement of claim on 11.05.1999 before the Tribunal. However after receipt of the reference, both parties were noticed and both parties appeared for certain dates, but subsequently workman/union left appearing before this Tribunal. Thereafter, again two regd. notices was issued to workman/union on 11.11.2019 and 28.02.2025 but even then no one appeared on behalf of workman/union. Now this case is pending since 10/02/1999 and workman/union is not appearing before Tribunal, so it is felt that workman/union has lost its interest in this matter. Hence "No Claim" Award is passed. Communicate.

D.K. SINGH, Presiding Officer/Link Officer

नई दिल्ली, 20 जून, 2025

का.आ. 1127.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. **सी. सी .एल,** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, धनबाद-1**, के पंचाट (**संदर्भ संख्या 22/ 2024**) को प्रकाशित करती है,

[सं. एल-20013/01/2025-आई.आर.(सी-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 20th June, 2025

S.O. 1127.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 22/2024*)*** of **the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-I** as shown in the Annexure, in the industrial dispute between the Management of **M/s B.C.C.L.** and **their workmen.**

[No. L-20013/01/2025– IR (C-I)]

MANIKANDAN. N, Dy. Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1,DHANBAD

In the matter of reference U/S 10 (1) (d)& (2A) of I.D.Act. 1947.

Reference Case No. 22/2024

Employer in relation to the management of AKWMC Colliery of Katras Area of M/s. BCCL.

AND.

Their workman.

Present: **Shri Sachindra Kumar Pandey**

Presiding Officer

Appearances:

For the Employers :- Sri N.Nath, OS Legal H.Q.

For the workman. :- Sri Pintu Mondal, Representative.

State : Jharkhand. Industry:- Coal

Dated 06/06/2025

AWARD

In exercise of powers conferred under clause (d) of sub-section (1) and sub –section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),Government Of India through the Ministry of Labour, vide its Order No.1/(41)/2024.A.7 dated 27/03/2024 has been pleased to refer the following dispute between the employer i.e. management of Katras Area of M/s. BCCL and their workman through General Secretary, National Mazdoor Union for adjudication by this Tribunal:

SCHEDULE

"Whether the management of AKWMC Colliery of Katras Area of M/s BCCL has rightly given promotion to Shri Ravinder Prasad E.P. Sr. Mech. As per norms of the company? If not whether he is entitled for relief?"

2. On receiving order no. 1/(41)/2024.A.7 dated 27/03/2024 Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, Reference case no. 22 of 2024 was registered on 28.03.2024 and thereafter the notices were sent to the parties with a direction to appear and submit their written statements along with relevant documents in support of their claims and the witnesses.

3. After issuance of notice, Sri Pintu Mondal, General Secretary appeared on behalf of the workman but no one appeared on behalf of the management. Later on 26.03.2025 Sri Pintu Mondal, General Secretary filed a petition of workman stating that he does not want to contest the case because he will be superannuated in June, 2025 and so his case be closed.

4. Today Sri N.Nath, OS Legal H.Q. for the employer is present and Sri Pintu Mondal, General Secretary on behalf of the workman is also present.

5. On perusal of the entire case record it transpires that the workman who is the aggrieved party, has filed a petition

dated 26.03.2025 with a prayer to close his case. As now he is not interested to contest this case, his prayer is allowed and accordingly this case is hereby dismissed as withdrawn and it is further ordered that "No Dispute Award" be drawn up in respect of the above reference case. Let the copies of Award in duplicate be sent to the Ministry of Labour & Employment, Government of India, New Delhi for information and notification.

SACHINDRA KUMAR PANDEY, Presiding Officer

नई दिल्ली, 23 जून, 2025

का.आ. 1128.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **प्रबंध निदेशक, स्कूटर्स इंडिया लिमिटेड, लखनऊ (यूपी)** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री राजधारी सिंह, आजमगढ़ (यूपी)** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, लखनऊ पंचाट (संदर्भ संख्या **22/2012**) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल -42011/138/2011-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 23rd June, 2025

S.O. 1128.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2012) of the **Central Government Industrial Tribunal cum Labour Court, Lucknow** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Managing Director, Scooters India Ltd., Lucknow (UP)** and **Shri Rajdhari Singh, Azamgarh (UP),** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42011/138/2011-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 22/2012

Ref. No. L-42011/138/2011-IR(DU) dated: 04.01.2012

BETWEEN

Shri Rajdhari Singh, S/o Late R.N. Singh, village - Ramgarh PO- Kathrawan

Dist. - Azamgarh (UP)

AND

The Managing Director, Scooters India Ltd.,

Sarojini Nagar, Lucknow (UP).

AWARD

On 04.01.2012 appropriate government by order no. L-42011/138/2011-IR (DU) has referred the following dispute to this Tribunal and accordingly the I.D. Case No. 22 of 2012 (Rajdhari Singh vs. M/s. Scooter India Ltd.) was registered:-

> *"Whether the action of the management of Scooters India Ltd., Lucknow in not considering the application of workman Sri* Rajdhari Singh *Grade 'C' dated 30.11.1993 and voluntarily retiring him w.e.f. 01.01.1994 without paying entire pensionery benefits, is legal and justified? What relief the workman is entitled to?"*

Case of claimant:s

On 27.03.2012 on behalf of workman, Statement of Claim filed stating therein the following averments :-

a) The applicant was appointed as semi skilled worker under the opposite party/employer on 18.11.1974

being fully eligible for the post and his Service No. is 1617 and he was initially granted Grade 'C'. The applicant/workman started performing his work and duties with all satisfaction of his all concerned.

b) All of sudden in the year 1993 a rumors was flown away in the campus of company that Manager of the respondent is saying that the company is going to be windup within a very short period due to heavy financial loss and as such employees may take his all service benefits as soon as possible from the company otherwise company will not responsible for the same. Those employees who will seek his voluntary retirement under the announced voluntary retirement scheme, they will call back in job/service on requirement of work on seniority basis.

c) The applicant believing rumor on 29.11.1993 applied for his voluntary retirement with effect from 15.03.1994 under the voluntary retirement scheme dated 08.12.1988.

d) A circular dated 06.11.1993 was also circulated by the respondent stating therein that the voluntary retirement scheme circulated vide circular dated 08.12.1988 will remain suspended with effect from 01.12.1993.

e) The applicant immediately on 30.11.1993 moved an application for withdrawing his voluntary retirement, which was sought by him with effect from 15.03.1994, then he came to know that his voluntary retirement has already been accepted by the management of opposite party on the same date i.e. on which he moved an application on 29.11.1993.

f) The management was fully aware with all things but voluntary retirement of the applicant was accepted knowingly and with mal intention on the same date when the applicant submitted his VRS application i.e. on 29.11.1993 only to oust him from the job, therefore the action of the respondent is quite bad in law and unjust.

g) The applicant applied for voluntary retirement on 29.11.1993 w.e.f. 15.03.1994 but his voluntary retirement was accepted by the respondent on the same date when he moved his application on 29.11.1993. The management is well known that the VRS circulated vide letter dated 8.12.1988 will remain suspended w.e.f. 1.12.1993, therefore, action of the respondent in accepting his VRS w.e.f. 29.11.1993 instead of 15.03.1994 is fully illegal, arbitrary and unjust.

h) If the applicant's voluntary retirement was not accepted w.e.f. 29.11.1993 i.e. on the date when he moved his application for VRS, his application would be cancelled or rejected by the management of the respondent as he submitted another application dated 30.11.1993 for withdrawing his voluntary retirement and thus he would remain in job till attaining his retirement age from the job. In view of this the respondent may be directed to pay entire salary and other service benefits to the applicant from the date of his relieve till the date of his retirement.

i) It is provided in the standing orders of the company that the pay will be revised on each 5 years of employees which has not been done in the matter of the applicant before accepting his VRS. The company is quietly running till date, therefore his voluntary retirement deserves to be quashed and the respondent be directed to reinstate the applicant on the post with full salary benefits from the date of relieve from the job till his date of retirement from the post and pay his entire due salary with 12% interest to the applicant.

Accordingly, learned counsel for workman has prayed that claim of the workman may be allowed with all consequential benefits.

Case of respondent:

On 10.10.2012 the written statement filed on behalf of the respondent M/s. Scooters India Limited taking the following preliminary objections :-

a) The matter of dispute does not constitute a valid industrial dispute, as the dispute has not been transformed into an industrial dispute within the meaning of the terms as defined in Industrial Disputes Act 1947.

b) The Central Government has not taken facts in cognizance while making a reference to the Tribunal. The reference is not based on the pleadings of the parties advanced at the conciliation stage, especially the submissions of the respondent before the Conciliation Officer/Government have been completely ignored, while making the reference for adjudication. No cause of action arose on the date as mentioned in reference order as such also on his ground alone, the reference order is bad in the eyes of law.

c) The Industrial Disputes Act 1947 has been amended vide Industrial Disputes (Amendment) Act, 2010 (Act No.24 of 2010) and period of limitation has been provided by virtue of Section 2A(3), which is quoted as

below:-

"2A(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section (1)"

d) A period of limitation has been provided i.e. three years from the alleged date of termination of services, but the instant case has arisen after a period of 18 years which is liable to the dismissed on the ground of limitation alone.

e) Even otherwise, the applicant has not raised industrial dispute within reasonable time. The applicant has raised an industrial dispute regarding his acceptance of Voluntary Retirement very belatedly i.e. after elapse of more than about 18 years. It is trite law as held by the Apex Court that the dispute must be raised within reasonable period of time from the cause of action and where the industrial dispute is not raised within reasonable period of time the Labour Court or Industrial Tribunal should decline to grant any interim relief to the workman.

f) The Apex Court in the case of Nedungadi Bank Ltd. Versus K.P. Madhavankutty & others : 2000 (84) FLR 673 SC, S.M. Niljakar Vs. Telecom District Manager, Karnataka:2003(97) FLR 608 SC, Manager R.B.I. Vs. Gopinath Sharma : 2006 FLR (110) FLR 803 SC has already held that the dispute must be raised within reasonable period of time from the cause of action and a dispute which is state could not be subject matter of reference.

g) The present reference is highly belated, inasmuch as it is made after more than eighteen years from the alleged date of cause of action. The instant delay caused prejudice to the respondent since the management not presumed to preserve the relevant record for such a long period.

h) It is settled law of the land that the person who is approaching this Tribunal should come with clean hand but in the instant matter, the applicant has concealed the actual material facts which are very necessary for the purposes of the adjudication of present matter of dispute, if any, as such also the reference is not maintainable before this Tribunal and accordingly deserves to be rejected.

i) That it is pertinent to mention here that earlier the applicant preferred a writ petition No. 2620 (S / S) of 2000: Rajendra Singh and others Vs. Scooters India Limited and others along with some other ex-employees of the Company before the Hon'ble High Court, Lucknow Bench, Lucknow challenging the order passed by the competent authority and the Hon'ble High Court had been pleased to dismissed the aforesaid writ petition including bunch of writ petitions bearing W.P. No. 2146 (S/S) of 2000, W.P. No. 6654 (S / S) of 1999, W.P. No. 1624 (S / S) of 2000, W.P. No. 1625 (S / S) of 2000, W.P. No. 1745 (S / S) of 2000, W.P. No. 1744 (S / S) of 2000, W.P. No. 1635 (S / S) of 2000, and W.P. No. 6099 (S / S) of 1999 vide judgment and order dated 08.02.2006 after holding that there is no dispute that the petitioners themselves had approached the scheme and had accepted all the benefits and after accepting all the benefits, after a lapse of long time, had tried to raise this dispute. Further the Hon'ble Court has held that the Conciliation Officer, in these circumstances for sufficient reasons disallowed the application of the petitioners.

j) A Review Petition No. 76 of 2006 was also filed by the aggrieved persons of Writ Petition No. 2620 (S/S) of 2000, which has also been dismissed by the Hon'ble High Court, Lucknow Bench, Lucknow vide its judgment and order dated 13.05.2008. Thus, it is clear that the matter has already been adjudicated upon by the competent Court of law and these facts have not been disclosed by the applicant in their written statement, which amounts to concealment of facts and the instant application is liable to be dismissed on this ground alone..

k) An identical situated employee had also preferred a Writ Petition No.1165(SS) of 1994:Jagdish Chandra Nigam Versus M/s. Scooters India Limited before the Hon'ble High Court, Lucknow Bench, Lucknow challenging the action of the management in accepting the application for voluntary retirement, which has been dismissed by means of detail judgment and order dated 09.01.1997.

l) Being aggrieved from the aforesaid judgment and order dated 9.1.1997, Special Appeal No. 48 (SB) of 1997 was preferred before the Division Bench of the Hon'ble High Court, Lucknow Bench, Lucknow and after conducting the necessary proceedings, the Hon'ble Division Bench of the Hon'ble High Court decided the said special appeal by means of judgment and order dated 18.12.2000 and set aside the judgment and order passed by the Single Judge to the extent that in case of the appellant/petitioner deposits the entire amount which he has received through cheque dated 12.3.1994 along with interest at the rate of 12% with respondent company as well as other benefits which might have been given to the appellant within four weeks from the production of certified copy of the order, the appellant will be reinstated in service.

m) The management preferred Special Leave Petition challenging the judgment and order dated 18.12.2000 before the Hon'ble Supreme Court of India, which was letter on converted into Civil Appeal No.1089 of 2004:M/s. Scooters India Limited & others Vs. Jagdish Chandra Nigam which was allowed by means of the judgment and order dated 12.2.2004 and the judgment and order dated 18.12.2000 rendered by the Division

Bench of the High Court, Lucknow Bench, Lucknow has been set aside.

n) Being aggrieved from the judgment and order dated 12.2.2004, Sri Jagdish Chandra Nigam had preferred a Review Petition No.747 of 2004: J.C. Nigam Vs. M/s. Scooters India Limited, which has also been dismissed by the Hon'ble Supreme Court of India vide its judgment and order dated 28.4.2004. Sri Nigam also preferred a Curative Petition No.152 of 2008 and the same has also been dismissed by the Constitution Bench of Hon'ble Supreme Court vide its judgment and order dated 21.1.2009. Thus it is crystal clear that the matter in dispute has already been decided by the competent court of law and now nothing remains to be adjudicated upon by this Tribunal.

o) It is crystal clear that the principles of res-judicata applies into the matter and accordingly the reference is liable to be rejected, out rightly without going into the merit of the case.

Accordingly, it has been prayed by respondent that the present industrial dispute may be dismissed being devoid of any merit.

Thereafter documents, evidences etc. had been exchanged between the parties. The respondent submits that the preliminary objections taken by them may be considered first and thereafter the matter be heard on merits.

Finding & conclusion on the Preliminary Objections:

I have gone through the pleadings made by the parties and evidence available on record.

It is not in dispute between the parties that Sri Rajdhari Singh -applicant/workman was appointed as semi-skilled worker in establishment known as Scooter India Limited on 18.11.1974, Grade-C having service No. 1617. Scooter India Limited floated a scheme known as Voluntary Retirement (hereinafter referred to as 'VRS').

On 29.11.1993 applicant submitted an application for opting VRS and the same was accepted by the respondent on 29.11.1993 and his date of release under the said scheme was notified as 01.01.1994 and consequently applicant was voluntary retired from service under the Scheme with all consequential benefits and the same were received by him.

Meanwhile on 6.11.1993 a circular was issued which reads as under:-

"*Sub: Voluntary Retirement Scheme – suspension thereof*

The Voluntary retirement scheme circulated vide circular no.SIL/PER/NC-63/88 dated 8.12.88 for the employees of the Company will remain suspended w.e.f.1.12.1993."

So a letter/representation dated 30.11.1993, submitted by applicant for withdrawal/rejection of his application dated 29.11.1993 for voluntary retirement from services on the ground mentioned therein.

From the material on record the position which emerges out that initially aggrieved by the action of the respondent thereby not considering application of the workman/applicant dated 30.11.1993 for rejecting/withdrawing acceptance of voluntary retirement by him under the scheme known as Voluntary Retirement Scheme, he raised a industrial dispute under Section 2-A of Industrial Disputes Act which rejected by the Conciliation Officer.

Aggrieved by the said facts, other similarly situated employees filed a Writ Petition no. 1129 (SS) of 1995 (Samsuddin & others Versus M/s. Scooter India Limited & others).

The said writ petition was heard by the Hon'ble High Court along with leading Writ Petition No.2146 (SS) of 2000 (S.V. Jaiswal Versus M/s. Scooter India Limited & others).

By means of order dated 8.2.2006 the Hon'ble High Court dismissed the Writ Petition No.2146 (SS) of 2000 along with other connected writ petitions including the Writ Petition No. 1129 (SS) of 1995, the relevant portion, quoted below:-

"*The question whether voluntary retirement would come under the definition of retrenchment or compulsory retirement or not, was considered in a number of cases which have been relied upon by the learned counsel appearing on behalf of the opposite party, one main of them has been reported in 1997(2), UPLBEC 1262, Jagdish Chand Nigam Vs. Scooter India Limited.*

In similar circumstances, the petitioners had taken voluntary retirement. The Bench of this court observed that the petitioner had occupied offer of his premature retirement, in order to receive the compensation, for the last tenure of service offered by the respondents. The offer made by the employers was accepted by the employees. The benefits provided by the respondents under this scheme were accepted by the petitioner. Since the workman had accepted the scheme and himself had opted to retire under this scheme, he cannot be allowed to approbate or reprobate. In the present case of the petitioner, the employees had accepted all benefits under the Voluntary Retirement Scheme, so they cannot retract from the obligations and exercise their right, integrally connected with the performance of the obligations under the Voluntary Retirement

Scheme.

In view of the above facts and in view of the principles of law laid down in the above noted case and after accepting offer of huge incentive, they now cannot withdraw their resignation and if their services had come to an end on account of it, they cannot be allowed to raise it in this manner as their grievance. The Hon'ble Apex Court in Special Leave Petition affirmed this judgment. The same principles were laid down by the Hon'ble Apex Court in another case reported in 2004(100) FLR 648, Punjab National Bank Vs. Virendra Kumar Goel and others and AIR 2003 SC 858, Bank of India with other banks Vs. Virendra Kumar Goel and others, wherein it was laid down that retirement was to take effect only after the request was accepted. Such scheme is only an intimation to offer which can be withdrawn before it is accepted contractual bar created under the scheme to withdraw the request once made by employees cannot be made.

In the present case there is no dispute that the petitioners themselves had approached the scheme and had accepted all the benefits and after accepting all the benefits, after a lapse of long time, had tried to raise this dispute. The Conciliation Officer, in these circumstances for sufficient reasons allowed the application of the petitioners.

I find no merit in these writ petitions. They are fit to be dismissed and are accordingly dismissed with costs."

However, above said facts have been concealed by applicant while filing the present I.D. Case with oblique motive and purpose.

Further, one Sri Jagdish Chandra Nigam whose case was identical to the case of claimant, filed a Special Appeal No.48 (SB) of 1997, allowed by means of judgment and order dated 18.12.2000 (reported in 2000CJ(All) 309), the relevant portion, quoted below:-

"18. The appeal is allowed. The judgment and order passed by the Hon'ble the single Judge is set aside to the extent, the observations made in the foregoing paragraph of this judgment. But we provide that in case the appellant deposits the entire amount which he has received through cheque dated March 12, 1994 alongwith interest at the rate of 12% with Scooters India Limited, as well as other benefits which might have been given to the appellant within four weeks from the date of production of the certified copy of this order, the appellant will be reinstated in service. But considering the facts and circumstances of the case, we further provide that the appellant will not be entitled for payment of back wages.

19. As far as the case of the petitioners of other writ petitions are concerned, the fact of those writ petitioners are not exactly identical to the facts which have been indicated in the present Special Appeal. But as this Court has decided the present Special Appeal more or less on same propositions of law although the fact might be different, we heard the arguments of the learned counsel for the parties in all the writ petitions alongwith special appeal, which are connected with this special appeal as well.

20. As we have already indicated that those employees who withdrew their application for voluntary retirement before the prospective date mentioned in the original application for voluntary retirement, shall he entitled for the relief. But those persons, who have not withdrawn their voluntary retirement before the prospective date, would not be entitled for any relief.

21. We further provide that those petitioners, who opted for the Voluntary Retirement Scheme from a prospective date and withdrew their resignations before the said prospective date, but were, relieved by the management of the Scooters India Ltd. would be entitled to the relief as Jagdish Chandra Nigam has been provided, provided they filed the writ petitions within one month from the date of the relieving orders. If they had filed the writ petition after one month from the date of relieving orders, they would not be entitled for any relief.

22. With the aforesaid observations, the Special Appeal as well as all the writ petitions are disposed of."

Judgment/order dated 18.12.2000 challenged by way of filing a S.L.P. having Special Leave Petition (Civil) No.10352/2001 (M/s. Scooters India Ltd & others versus Jagdish Chandra Nigam) along with other S.L.P.s which were connected. In the above noted S.L.P. an order dated 12.2.2004 was passed by the Hon'ble Supreme Court which reads as under:-

"*Leave Granted.*

For the reasons stated in our order passed today in C.A. No.4098/2002, this appeal is allowed.

The order and judgment under challenge is set aside. There shall be no order as to costs."

Thus, as per the order passed by the Hon'ble Supreme Court, the S.L.P. filed by M/s. Scooters India Limited was allowed and judgment and order passed in the case of Special Appeal filed by Sri Jagdish Chandra Nigam was set aside/S.L.P. filed by Sri Jagdish Chandra Nigam was dismissed.

Moreover order passed by the Hon'ble Supreme Court in Special Leave Petition (Civil) No.10352/2001 (M/s. Scooters India Ltd & others versus Jagdish Chandra Nigam) based upon order dated 12.2.2004 passed by the Hon'ble

Supreme Court in C.A. No.4098 of 2002 (Bank of India & others Vs. Pale Ram Dhania), reproduced below:-

> *"1. It is not disputed that the appellant Bank introduced a Voluntary Retirement Scheme, 2000 (herein referred to as "the Scheme") for its employees which had the approval of its Board of Directors. The Scheme was operative w.e.f. November 15, 2000 to December 14, 2000 for the employees who sought voluntary retirement. It is not disputed that the respondent herein who was an employee of the appellant Bank sought voluntary retirement under the Scheme on November 30, 2000. It is also not disputed that on December 2, 2000 he wrote to the Bank for withdrawal of his application for voluntary retirement. On January 22, 2001, the appellant Bank accepted the request for voluntary retirement of the respondent. Further, on January 25, 2001, the respondent withdrew the retiral benefits deposited in the Bank in his name as per voluntary retirement. It appears that the respondent changed his mind after the respondent was relieved from the employment and he filed a petition under Article 226 of the Constitution challenging the acceptance of his request for voluntary retirement. A learned Single Judge of the High Court allowed the petition and set aside the acceptance of the application for voluntary retirement submitted by the respondent. Aggrieved, the appellants preferred a letters patent appeal which was dismissed. It is against the said judgment, the appellants are in appeal before us.*
>
> *2. A Bench of three Judges of this Court in Punjab National Bank v. Virender Kumar Goel , has held that an employee who sought voluntary retirement and subsequently wrote for its withdrawal but has withdrawn the amount of retiral benefits as per the Voluntary Retirement Scheme, is not entitled to the withdrawal of his application for voluntary retirement. It is not disputed that in the present case the respondent herein withdrew the amount of retiral benefits on January 25, 2001.*
>
> *3. For the aforesaid reason, this appeal deserves to be allowed. We order accordingly. The order and judgment under challenge is set aside. There shall be no order as to costs".*

In Review Petition (Civil) No. 53 of 2003 arising out of Appeal (Civil) No.896 of 2002 (Punjab National Bank Versus Virender Kumar Goel & others), the Hon'ble Supreme Court on 21.1.2004 passed an order. The relevant of order dated 21.1.2004 reads as under:-

"I.A.NOS. 1-22

These applications have been filed by the State Bank of Patiala for clarification/directions. The ground taken in these applications is that the State Bank of Patiala is not a nationalised bank. It is hundred per cent a subsidiary of the State Bank of India. The VRS scheme floated by the State Bank of Patiala is in para-materia with the scheme floated by the State Bank of India. This Court in the judgment dated 17.12.2002 allowed the appeals filed by the State Bank of India but nothing has been said about the appeals filed by the State Bank of Patiala. In the interregnum, a two-Judge Bench of this Court, in which one of us (Sema, J) was a member, considered the same question in Civil Appeal No. 2341 of 2003 arising out of Special Leave Petition No. 23530 of 2002 entitled State Bank of Patiala Vs. Jagga Singh, disposed of on 13.3.2003, where this Court after considering Clause 8 of the scheme floated by the State Bank of Patiala and Clause 7 of the scheme floated by the State Bank of India, had held that the scheme floated by the State Bank of Patiala is almost identical of the scheme floated by the State Bank of India. Accordingly, the appeal filed by the State Bank of Patiala was allowed. Review Petition was also dismissed on 3.12.2003. In view thereof, we clarify that our direction No.2, allowing the appeals filed by the State Bank of India, would also include the appeals filed by the State Bank of Patiala. In other words, the appeals filed by the State Bank of Patiala are allowed in terms of our judgment dated 17.12.2002. I.A.NOS. 14-15 I.A.No.14 has been filed by an employee of the bank sought to clarify/modify our order dated 17.12.2002. In this case, admittedly, the benefit of the scheme had been withdrawn by the applicant on 27.2.2001. The applicant had clearly admitted, in ground E of the application, withdrawal of the amount so credited in his account, albeit compelling financial constraints.

I.A.No.15 has been filed by an employee of the bank for clarification/modification of our order dated 17.12.2002. In para 6 of the application, the applicant admitted that he had withdrawn and utilised the benefit of the scheme credited in his account.

As noticed in our judgment, having accepted the benefit under the scheme by withdrawing and utilisation thereof they are not permitted to approbate and reprobate."

Moreover Sri J.C. Nigam filed a Review Petition (Civil) No.747 of 2004 in C.A. No.1089 of 2004 (J.C. Nigam Versus M/s. Scooter India Limited & others) before the Hon'ble Supreme Court in which the following order dated 28.4.2004 passed:-

> "*We do not filed any merit in the review petition and the same is accordingly dismissed*."

Thereafter, Sri J.C. Nigam filed a Curative Petition No.152 of 2008 against order dated 28.4.2004 passed in Review Petition (Civil) No.747 of 2004 which was dismissed by an order dated 20.1.2009, quoted below:-

> "*We have perused the petition and the connected papers. In our view, no case is made out within the parameters indicated in the decision of this Court in Rupa Ashok Hurra Vs. Ashok Hurra & Anr. 2002(4)*

SCC 388. Hence, the Curative Petition is dismissed."

In addition to the above said facts, Hon'ble the Apex Court in the constitution bench in the case of *Rupa Ashok Hurra Versus Ashok Hurra & Anr, 2002(4) SCC 388* held as under:-

"Incidentally, this Court stands out to be an avenue for redressal of grievance not only in its revisional jurisdiction as conferred by the Constitution but as a platform and forum for every grievance in the country and it is on this context Mr.Shanti Bhushan, appearing in support of the some of the petitioners, submitted that the Supreme Court in its journey for over 50 years has been able to obtain the confidence of the people of the country, whenever the same is required be it the atrocities of the police or a public grievance pertaining to a governmental action involving multitudes of problems. It is the Supreme Court, Mr. Shanti Bhushan contended, where the people feel confident that justice is above all and would be able to obtain justice in its true form and sphere and this is beyond all controversies. It has been contended that finality of the proceeding after an Order of the Supreme Court, there should be, but that does not preclude or said to preclude this Court from going into the factum of the petition for gross injustice caused by an Order of the Supreme Court itself under the inherent power being an authority to correct its errors any other view should not and ought not be allowed to be continued. Needless to record here, however, that review jurisdiction stand foisted upon this Court in terms of the provisions of the Constitution, as noticed hereinbefore and it is also well-settled that a second review petition cannot be said to maintainable. Reference maybe made in this context to a decision of this Court in the case of J.Ranga Swamy v. Govt. of A.P. & Ors. (AIR 1990 SC 535), wherein this Court in paragraph 3 stated as below :-

"We are clearly of the opinion that these applications are not maintainable. The petitioner, who appeared in person, referred to the judgment in Antulay's case (1988) 2 SCC 602 : (AIR 1988 SC 1531). We are, however, of the opinion that the principle of that case is not applicable here. All the points which the petitioner urged regarding the constitutionality of the Government orders in question as well as the appointment of respondent instead of petitioner to the post in question had been urged before the Bench, which heard the civil appeal and writ petitions originally. The petitioner himself stated that he was heard by the Bench at some length. It is, therefore, clear that the matters were disposed of after a consideration of all the points urged by the petitioner and the mere fact that the order does not discuss the contentions or give reasons cannot entitle the petitioner to have what is virtually a second review."

True, due regard shall have to have as regards opinion of the Court in Ranga Swamy (supra), but the situation presently centres round that in the event of there being any manifest injustice would the doctrine of ex debito justitiae be said to be having a role to play in sheer passivity or to rise above the ordinary heights as it preaches that justice is above all. The second alternative seems to be in consonance with time and present phase of socio-economic conditions of the society. Manifest justice is curable in nature rather than incurable and this court would lose its sanctity and thus would belie the expectations of the founding fathers that justice is above all. There is no manner of doubt that procedural law/procedural justice cannot overreach the concept of justice and in the event an Order stands out to create manifest injustice, would the same be allowed to remain in silenco so as to affect the parties perpetually or the concept of justice ought to activate the Court to find a way out to resolve the erroneous approach to the problem. Mr.Attorney General, with all the emphasis in his command, though principally agreed that justice of the situation needs to be looked into and relief be granted if so required but on the same breath submitted that the Court ought to be careful enough to trade on the path, otherwise the same will open up Pandora's box and thus, if at all, in rarest of the rare cases the further scrutiny may be made. While it is true that law courts has overburdened itself with the litigation and delay in disposal of matters in the subcontinent is not unknown and in the event of any further appraisal of the matter by this Court, it would brook on further delay resulting in consequences which are not far to see but that would by itself not in my view deter this Court from further appraisal of the matter in the event the same, however, deserve such an additional appraisal The note of caution sounded by Mr. Attorney as regards opening up of pandora's box strictly speaking, however, though may be of very practical in nature but the same apparently does not seem to go well with the concept of justice as adumbrated in our constitution. True it is, that practicability of the situation needs a serious consideration more so when this Court could do without it for more than 50 years, which by no stretch of imagination can be said to be a period not so short. I feel it necessary, however, to add that it is not that we are not concerned with the consequences of reopening of the issue but the redeeming feature of our justice delivery system, as is prevalent in the country, is adherence to proper and effective administration of justice in stricto. In the event there is any affectation of such an administration of justice either by way of infraction of natural justice or an order being passed wholly without jurisdiction or affectation of public confidence as regards the doctrine of integrity in the justice delivery system technicality ought not to out-weigh the course of justice the same being the true effect of the doctrine of ex debito justitiae. The oft quoted statement of law of Lord Hewart, CJ in R v. Susssex Justices, ex p McCarthy (1924 (1) KB 256) that it is of fundamental importance that justice should not only be done, should manifestly and undoubtedly be seem to be done had this doctrine underlined and administered therein. In this context, the decision of the House of Lords in R v. Bow Street Metropolitan Stipendiary Magistrate and others, ex parte Pinochet Ugarte (No.2) seem to be an

ipoc making decision, wherein public confidence on the judiciary is said to be the basic criteria of the justice delivery system any act or action even if it a passive one, if erodes or even likely to erode the ethics of judiciary, matter needs a further look. Brother Quadri has taken very great pains to formulate the steps to be taken and the methodology therefor, in the event of there being an infraction of the concept of justice, as such further dilation would be an unnecessary exercise which I wish to avoid since I have already recorded my concurrence therewith excepting, however, lastly that curative petitions ought to be treated as a rarity rather than regular and the appreciation of the Court shall have to be upon proper circumspection having regard to the three basic features of our justice delivery system to wit, the order being in contravention of the doctrine of natural justice or without jurisdiction or in the event of there is even a likelihood of public confidence being shaken by reason of the association or closeness of a judge with the subject matter in dispute. In my view, it is now time that procedural justice system should give way to the conceptual justice system and efforts of the law Court ought to be so directed. Gone are the days where implementation of draconian system of law or interpretation thereof were insisted upon - Flexibility of the law Courts presently are its greatest virtue and as such justice oriented approach is the need of the day to strive and forge ahead in the 21st century."

Thus, from the above said facts and the material on record, as the present industrial dispute stands on the same footing as of Sri Jagdish Chandra Nigam, so in view of the judgment passed Hon'ble Supreme Court in the case of Sri Jagdish Chandra Nigam thereafter in Review Petition and Curative Petition, by him which were also dismissed.

Accordingly, preliminary objection taken by learned counsel for respondent is allowed, the claim petition filed by claimant is liable to be dismissed.

Order

For the foregoing reasons the present industrial dispute is dismissed, workman is not entitled for any relief; and the reference is answered accordingly.

Lucknow.
10th March, 2025. Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 23 जून, 2025

का.आ. 1129.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **प्रबंध निदेशक, स्कूटर्स इंडिया लिमिटेड, लखनऊ (यूपी)** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री राजेंद्र सिंह, लखनऊ** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, लखनऊ पंचाट(संदर्भ संख्या **25/2012**) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल -42011/158/2011-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 23rd June, 2025

S.O. 1129.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 25/2012) of the **Central Government Industrial Tribunal cum Labour Court, Lucknow** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Managing Director, Scooters India Ltd., Lucknow (UP)** and **Shri Rajendra Singh, Lucknow,** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42011/158/2011-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 25/2012

Ref. No. L-42011/158/2011-IR(DU) dated: 05.01.2012

BETWEEN

Shri Rajendra Singh Village - Gauri PO- Sarojini Nagar

Distt. - Lucknow.

AND

The Managing Director, Scooters India Ltd.,

Sarojini Nagar, Lucknow (UP).

AWARD

On 05.01.2012 appropriate government by order no.L-42011/158/2011-IR (DU) has referred the following dispute to this Tribunal and accordingly the I.D. Case No. 25 of 2012 (Rajendra Singh vs. M/s. Scooter India Ltd.) was registered:-

> *"Whether the action of the management of Scooters India Ltd., Lucknow in not considering the application of workman Sri* Rajendra Singh *Grade 'D' dated 31.12.1993 and voluntarily retiring him w.e.f. 11.01.1994 without paying entire pensionery benefits, is legal and justified? What relief the workman is entitled to?"*

Case of claimant:s

On 27.03.2012 on behalf of workman, Statement of Claim filed stating therein the following averments :-

a) Applicant/workman was appointed as semi skilled worker under the opposite party/employer on 11.12.1976 being fully eligible for the post and his Service No. is 03966 and he was initially granted Grade 'D'. The applicant/workman started performing his work and duties with all satisfaction of his all concerned.

b) All of sudden in the year 1993 a rumors was flown away in the campus of company that Manager of the respondent is saying that the company is going to be windup within a very short period due to heavy financial loss and as such employees may take his all service benefits as soon as possible from the company otherwise company will not responsible for the same. Those employees who will seek his voluntary retirement under the announced voluntary retirement scheme, they will call back in job/service on requirement of work on seniority basis.

c) The applicant believing rumor on 30.11.1993 applied for his voluntary retirement with effect from 31.03.1994 under the voluntary retirement scheme dated 08.12.1988.

d) A circular dated 06.11.1993 was also circulated by the respondent stating therein that the voluntary retirement scheme circulated vide circular dated 08.12.1988 will remain suspended with effect from 01.12.1993.

e) The applicant immediately on 14.12.1993 moved an application for withdrawing his voluntary retirement, which was sought by him with effect from 31.03.1994, then he came to know that his voluntary retirement has already been accepted by the management of opposite party on the same date i.e. on which he moved an application on 30.11.1993.

f) The management was fully aware with all things but voluntary retirement of the applicant was accepted knowingly and with mal intention on the same date when the applicant submitted his VRS application i.e. on 30.11.1993 only to oust him from the job, therefore the action of the respondent is quite bad in law and unjust.

g) The applicant applied for voluntary retirement on 30.11.1993 w.e.f. 31.03.1994 but his voluntary retirement was accepted by the respondent on the same date when he moved his application on 30.11.1993. The management is well known that the VRS circulated vide letter dated 8.12.1988 will remain suspended w.e.f. 1.12.1993, therefore, action of the respondent in accepting his VRS w.e.f. 30.11.1993 instead of 31.03.1994 is fully illegal, arbitrary and unjust.

h) If the applicant's voluntary retirement was not accepted w.e.f. 30.11.1993 i.e. on the date when he moved his application for VRS, his application would be cancelled or rejected by the management of the respondent as he submitted another application dated 14.12.1993 for withdrawing his voluntary retirement and thus he would remain in job till attaining his retirement age from the job. In view of this the respondent may be directed to pay entire salary and other service benefits to the applicant from the date of his relieve till the date of his retirement.

i) It is provided in the standing orders of the company that the pay will be revised on each 5 years of employees which has not been done in the matter of the applicant before accepting his VRS. The company is quietly running till date, therefore his voluntary retirement deserves to be quashed and the respondent be directed to reinstate the applicant on the post with full salary benefits from the date of relieve from the job till his date of retirement from the post and pay his entire due salary with 12% interest to the applicant.

Accordingly, it has been prayed on behalf of workman that present case may be allowed and relief as claimed by him may kindly be granted.

Case of respondent:

On 10.10.2012 the written statement filed on behalf of the respondent M/s. Scooters India Limited taking the following **preliminary objections** :-

a) The matter of dispute does not constitute a valid industrial dispute, as the dispute has not been transformed into an industrial dispute within the meaning of the terms as defined in Industrial Disputes Act 1947.

b) The Central Government has not taken facts in cognizance while making a reference to the Tribunal. The reference is not based on the pleadings of the parties advanced at the conciliation stage, especially the submissions of the respondent before the Conciliation Officer/Government have been completely ignored, while making the reference for adjudication. No cause of action arose on the date as mentioned in reference order as such also on his ground alone, the reference order is bad in the eyes of law.

c) The Industrial Disputes Act 1947 has been amended vide Industrial Disputes (Amendment) Act, 2010 (Act No.24 of 2010) and period of limitation has been provided by virtue of Section 2A(3), which is quoted as below:-

> *"2A(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section (1)"*

d) A period of limitation has been provided i.e. three years from the alleged date of termination of services, but the instant case has arisen after a period of 18 years which is liable to the dismissed on the ground of limitation alone.

e) Even otherwise, the applicant has not raised industrial dispute within reasonable time. The applicant has raised an industrial dispute regarding his acceptance of Voluntary Retirement very belatedly i.e. after elapse of more than about 18 years. It is trite law as held by the Apex Court that the dispute must be raised within reasonable period of time from the cause of action and where the industrial dispute is not raised within reasonable period of time the Labour Court or Industrial Tribunal should decline to grant any interim relief to the workman.

f) The Apex Court in the case of Nedungadi Bank Ltd. Versus K.P. Madhavankutty & others : 2000 (84) FLR 673 SC, S.M. Niljakar Vs. Telecom District Manager, Karnataka:2003(97) FLR 608 SC, Manager R.B.I. Vs. Gopinath Sharma : 2006 FLR (110) FLR 803 SC has already held that the dispute must be raised within reasonable period of time from the cause of action and a dispute which is state could not be subject matter of reference.

g) The present reference is highly belated, inasmuch as it is made after more than eighteen years from the alleged date of cause of action. The instant delay caused prejudice to the respondent since the management not presumed to preserve the relevant record for such a long period.

h) It is settled law of the land that the person who is approaching this Tribunal should come with clean hand but in the instant matter, the applicant has concealed the actual material facts which are very necessary for the purposes of the adjudication of present matter of dispute, if any, as such also the reference is not maintainable before this Tribunal and accordingly deserves to be rejected.

i) That it is pertinent to mention here that earlier the applicant preferred a writ petition No. 2620 (S / S) of 2000: Rajendra Singh and others Vs. Scooters India Limited and others along with some other ex-employees of the Company before the Hon'ble High Court, Lucknow Bench, Lucknow challenging the order passed by the competent authority and the Hon'ble High Court had been pleased to dismissed the aforesaid writ petition including bunch of writ petitions bearing W.P. No. 2146 (S/S) of 2000, W.P. No. 6654 (S / S) of 1999, W.P. No. 1624 (S / S) of 2000, W.P. No. 1625 (S / S) of 2000, W.P. No. 1745 (S / S) of 2000, W.P. No. 1744 (S / S) of 2000, W.P. No. 1635 (S / S) of 2000, and W.P. No. 6099 (S / S) of 1999 vide judgment and order dated 08.02.2006 after holding that there is no dispute that the petitioners themselves had approached the scheme and had accepted all the benefits and after accepting all the benefits, after a lapse of long time, had tried to

raise this dispute. Further the Hon'ble Court has held that the Conciliation Officer, in these circumstances for sufficient reasons disallowed the application of the petitioners.

j) A Review Petition No. 76 of 2006 was also filed by the aggrieved persons of Writ Petition No. 2620 (S/S) of 2000, which has also been dismissed by the Hon'ble High Court, Lucknow Bench, Lucknow vide its judgment and order dated 13.05.2008. Thus, it is clear that the matter has already been adjudicated upon by the competent Court of law and these facts have not been disclosed by the applicant in their written statement, which amounts to concealment of facts and the instant application is liable to be dismissed on this ground alone..

k) An identical situated employee had also preferred a Writ Petition No.1165(SS) of 1994:Jagdish Chandra Nigam Versus M/s. Scooters India Limited before the Hon'ble High Court, Lucknow Bench, Lucknow challenging the action of the management in accepting the application for voluntary retirement, which has been dismissed by means of detail judgment and order dated 09.01.1997.

l) Being aggrieved from the aforesaid judgment and order dated 9.1.1997, Special Appeal No. 48 (SB) of 1997 was preferred before the Division Bench of the Hon'ble High Court, Lucknow Bench, Lucknow and after conducting the necessary proceedings, the Hon'ble Division Bench of the Hon'ble High Court decided the said special appeal by means of judgment and order dated 18.12.2000 and set aside the judgment and order passed by the Single Judge to the extent that in case of the appellant/petitioner deposits the entire amount which he has received through cheque dated 12.3.1994 along with interest at the rate of 12% with respondent company as well as other benefits which might have been given to the appellant within four weeks from the production of certified copy of the order, the appellant will be reinstated in service.

m) The management preferred Special Leave Petition challenging the judgment and order dated 18.12.2000 before the Hon'ble Supreme Court of India, which was letter on converted into Civil Appeal No.1089 of 2004:M/s. Scooters India Limited & others Vs. Jagdish Chandra Nigam which was allowed by means of the judgment and order dated 12.2.2004 and the judgment and order dated 18.12.2000 rendered by the Division Bench of the High Court, Lucknow Bench, Lucknow has been set aside.

n) Being aggrieved from the judgment and order dated 12.2.2004, Sri Jagdish Chandra Nigam had preferred a Review Petition No.747 of 2004: J.C. Nigam Vs. M/s. Scooters India Limited, which has also been dismissed by the Hon'ble Supreme Court of India vide its judgment and order dated 28.4.2004. Sri Nigam also preferred a Curative Petition No.152 of 2008 and the same has also been dismissed by the Constitution Bench of Hon'ble Supreme Court vide its judgment and order dated 21.1.2009. Thus it is crystal clear that the matter in dispute has already been decided by the competent court of law and now nothing remains to be adjudicated upon by this Tribunal.

o) It is crystal clear that the principles of res-judicata applies into the matter and accordingly the reference is liable to be rejected, out rightly without going into the merit of the case.

Accordingly, it has been prayed by respondent that the present industrial dispute may be dismissed being devoid of any merit.

Thereafter documents, evidences etc. had been exchanged between the parties. The respondent submits that the preliminary objections taken by them may be considered first and thereafter the matter be heard on merits.

Finding & conclusion on the Preliminary Objections:

I have gone through the pleadings made by the parties and evidence available on record.

It is not in dispute between the parties that Sri Rajendra Singh -applicant/workman was appointed as semi-skilled worker in establishment known as Scooter India Limited on 11.12.1976, Grade-D having service No. 03966. Scooter India Limited floated a scheme known as Voluntary Retirement (hereinafter referred to as 'VRS').

On 30.11.1993 applicant submitted an application for opting VRS and the same was accepted by the respondent on 30.11.1993 and his date of release under the said scheme was notified as 31.11.1993 and consequently applicant was voluntary retired from service under the Scheme with all consequential benefits and the same were received by him.

Meanwhile on 6.11.1993 a circular was issued which reads as under:-

"*Sub: Voluntary Retirement Scheme – suspension thereof*

The Voluntary retirement scheme circulated vide circular no.SIL/PER/NC-63/88 dated 8.12.88 for the employees of the Company will remain suspended w.e.f.1.12.1993."

So a letter/representation dated 14.12.1993, submitted by applicant for withdrawal/rejection of his application dated 30.11.1993 for voluntary retirement from services on the ground mentioned therein.

From the material on record the position which emerges out that initially aggrieved by the action of the respondent thereby not considering application of the workman/applicant dated 14.12.1993 for rejecting/withdrawing acceptance of voluntary retirement by him under the scheme known as Voluntary Retirement Scheme, he raised a industrial dispute under Section 2-A of Industrial Disputes Act which rejected by the Conciliation Officer.

Aggrieved by the said facts, other similarly situated employees filed a Writ Petition no. 1129 (SS) of 1995 (Samsuddin & others Versus M/s. Scooter India Limited & others).

The said writ petition was heard by the Hon'ble High Court along with leading Writ Petition No.2146 (SS) of 2000 (S.V. Jaiswal Versus M/s. Scooter India Limited & others).

By means of order dated 8.2.2006 the Hon'ble High Court dismissed the Writ Petition No.2146 (SS) of 2000 along with other connected writ petitions including the Writ Petition No. 1129 (SS) of 1995, the relevant portion, quoted below:-

> "*The question whether voluntary retirement would come under the definition of retrenchment or compulsory retirement or not, was considered in a number of cases which have been relied upon by the learned counsel appearing on behalf of the opposite party, one main of them has been reported in 1997(2), UPLBEC 1262, Jagdish Chand Nigam Vs. Scooter India Limited.*
>
> *In similar circumstances, the petitioners had taken voluntary retirement. The Bench of this court observed that the petitioner had occupied offer of his premature retirement, in order to receive the compensation, for the last tenure of service offered by the respondents. The offer made by the employers was accepted by the employees. The benefits provided by the respondents under this scheme were accepted by the petitioner. Since the workman had accepted the scheme and himself had opted to retire under this scheme, he cannot be allowed to approbate or reprobate. In the present case of the petitioner, the employees had accepted all benefits under the Voluntary Retirement Scheme, so they cannot retract from the obligations and exercise their right, integrally connected with the performance of the obligations under the Voluntary Retirement Scheme.*
>
> *In view of the above facts and in view of the principles of law laid down in the above noted case and after accepting offer of huge incentive, they now cannot withdraw their resignation and if their services had come to an end on account of it, they cannot be allowed to raise it in this manner as their grievance. The Hon'ble Apex Court in Special Leave Petition affirmed this judgment. The same principles were laid down by the Hon'ble Apex Court in another case reported in 2004(100) FLR 648, Punjab National Bank Vs. Virendra Kumar Goel and others and AIR 2003 SC 858, Bank of India with other banks Vs. Virendra Kumar Goel and others, wherein it was laid down that retirement was to take effect only after the request was accepted. Such scheme is only an intimation to offer which can be withdrawn before it is accepted contractual bar created under the scheme to withdraw the request once made by employees cannot be made.*
>
> *In the present case there is no dispute that the petitioners themselves had approached the scheme and had accepted all the benefits and after accepting all the benefits, after a lapse of long time, had tried to raise this dispute. The Conciliation Officer, in these circumstances for sufficient reasons allowed the application of the petitioners.*
>
> *I find no merit in these writ petitions. They are fit to be dismissed and are accordingly dismissed with costs*."

However, above said facts have been concealed by applicant while filing the present I.D. Case with oblique motive and purpose.

Further, one Sri Jagdish Chandra Nigam whose case was identical to the case of claimant, filed a Special Appeal No.48 (SB) of 1997, allowed by means of judgment and order dated 18.12.2000 (reported in 2000CJ(All) 309), the relevant portion, quoted below:-

> *"18. The appeal is allowed. The judgment and order passed by the Hon'ble the single Judge is set aside to the extent, the observations made in the foregoing paragraph of this judgment. But we provide that in case the appellant deposits the entire amount which he has received through cheque dated March 12, 1994 alongwith interest at the rate of 12% with Scooters India Limited, as well as other benefits which might have been given to the appellant within four weeks from the date of production of the certified copy of this order, the appellant will be reinstated in service. But considering the facts and circumstances of the case, we further provide that the appellant will not be entitled for payment of back wages.*
>
> *19. As far as the case of the petitioners of other writ petitions are concerned, the fact of those writ petitioners are not exactly identical to the facts which have been indicated in the present Special Appeal. But as this Court has decided the present Special Appeal more or less on same propositions of law although the fact*

might be different, we heard the arguments of the learned counsel for the parties in all the writ petitions alongwith special appeal, which are connected with this special appeal as well.

20. As we have already indicated that those employees who withdrew their application for voluntary retirement before the prospective date mentioned in the original application for voluntary retirement, shall he entitled for the relief. But those persons, who have not withdrawn their voluntary retirement before the prospective date, would not be entitled for any relief.

21. We further provide that those petitioners, who opted for the Voluntary Retirement Scheme from a prospective date and withdrew their resignations before the said prospective date, but were, relieved by the management of the Scooters India Ltd. would be entitled to the relief as Jagdish Chandra Nigam has been provided, provided they filed the writ petitions within one month from the date of the relieving orders. If they had filed the writ petition after one month from the date of relieving orders, they would not be entitled for any relief.

22. With the aforesaid observations, the Special Appeal as well as all the writ petitions are disposed of."

Judgment/order dated 18.12.2000 challenged by way of filing a S.L.P. having Special Leave Petition (Civil) No.10352/2001 (M/s. Scooters India Ltd & others versus Jagdish Chandra Nigam) along with other S.L.P.s which were connected. In the above noted S.L.P. an order dated 12.2.2004 was passed by the Hon'ble Supreme Court which reads as under:-

"*Leave Granted.*

For the reasons stated in our order passed today in C.A. No.4098/2002, this appeal is allowed.

The order and judgment under challenge is set aside. There shall be no order as to costs."

Thus, as per the order passed by the Hon'ble Supreme Court, the S.L.P. filed by M/s. Scooters India Limited was allowed and judgment and order passed in the case of Special Appeal filed by Sri Jagdish Chandra Nigam was set aside/S.L.P. filed by Sri Jagdish Chandra Nigam was dismissed.

Moreover order passed by the Hon'ble Supreme Court in Special Leave Petition (Civil) No.10352/2001 (M/s. Scooters India Ltd & others versus Jagdish Chandra Nigam) based upon order dated 12.2.2004 passed by the Hon'ble Supreme Court in C.A. No.4098 of 2002 (Bank of India & others Vs. Pale Ram Dhania), reproduced below:-

"1. It is not disputed that the appellant Bank introduced a Voluntary Retirement Scheme, 2000 (herein referred to as "the Scheme") for its employees which had the approval of its Board of Directors. The Scheme was operative w.e.f. November 15, 2000 to December 14, 2000 for the employees who sought voluntary retirement. It is not disputed that the respondent herein who was an employee of the appellant Bank sought voluntary retirement under the Scheme on November 30, 2000. It is also not disputed that on December 2, 2000 he wrote to the Bank for withdrawal of his application for voluntary retirement. On January 22, 2001, the appellant Bank accepted the request for voluntary retirement of the respondent. Further, on January 25, 2001, the respondent withdrew the retiral benefits deposited in the Bank in his name as per voluntary retirement. It appears that the respondent changed his mind after the respondent was relieved from the employment and he filed a petition under Article 226 of the Constitution challenging the acceptance of his request for voluntary retirement. A learned Single Judge of the High Court allowed the petition and set aside the acceptance of the application for voluntary retirement submitted by the respondent. Aggrieved, the appellants preferred a letters patent appeal which was dismissed. It is against the said judgment, the appellants are in appeal before us.

2. A Bench of three Judges of this Court in Punjab National Bank v. Virender Kumar Goel , has held that an employee who sought voluntary retirement and subsequently wrote for its withdrawal but has withdrawn the amount of retiral benefits as per the Voluntary Retirement Scheme, is not entitled to the withdrawal of his application for voluntary retirement. It is not disputed that in the present case the respondent herein withdrew the amount of retiral benefits on January 25, 2001.

3. For the aforesaid reason, this appeal deserves to be allowed. We order accordingly. The order and judgment under challenge is set aside. There shall be no order as to costs".

In Review Petition (Civil) No. 53 of 2003 arising out of Appeal (Civil) No.896 of 2002 (Punjab National Bank Versus Virender Kumar Goel & others), the Hon'ble Supreme Court on 21.1.2004 passed an order. The relevant of order dated 21.1.2004 reads as under:-

"I.A.NOS. 1-22

These applications have been filed by the State Bank of Patiala for clarification/directions. The ground taken in these applications is that the State Bank of Patiala is not a nationalised bank. It is hundred per cent a subsidiary of the State Bank of India. The VRS scheme floated by the State Bank of Patiala is in para-materia

with the scheme floated by the State Bank of India. This Court in the judgment dated 17.12.2002 allowed the appeals filed by the State Bank of India but nothing has been said about the appeals filed by the State Bank of Patiala. In the interregnum, a two-Judge Bench of this Court, in which one of us (Sema, J) was a member, considered the same question in Civil Appeal No. 2341 of 2003 arising out of Special Leave Petition No. 23530 of 2002 entitled State Bank of Patiala Vs. Jagga Singh, disposed of on 13.3.2003, where this Court after considering Clause 8 of the scheme floated by the State Bank of Patiala and Clause 7 of the scheme floated by the State Bank of India, had held that the scheme floated by the State Bank of Patiala is almost identical of the scheme floated by the State Bank of India. Accordingly, the appeal filed by the State Bank of Patiala was allowed. Review Petition was also dismissed on 3.12.2003. In view thereof, we clarify that our direction No.2, allowing the appeals filed by the State Bank of India, would also include the appeals filed by the State Bank of Patiala. In other words, the appeals filed by the State Bank of Patiala are allowed in terms of our judgment dated 17.12.2002. I.A.NOS. 14-15 I.A.No.14 has been filed by an employee of the bank sought to clarify/modify our order dated 17.12.2002. In this case, admittedly, the benefit of the scheme had been withdrawn by the applicant on 27.2.2001. The applicant had clearly admitted, in ground E of the application, withdrawal of the amount so credited in his account, albeit compelling financial constraints.

I.A.No.15 has been filed by an employee of the bank for clarification/modification of our order dated 17.12.2002. In para 6 of the application, the applicant admitted that he had withdrawn and utilised the benefit of the scheme credited in his account.

As noticed in our judgment, having accepted the benefit under the scheme by withdrawing and utilisation thereof they are not permitted to approbate and reprobate."

Moreover Sri J.C. Nigam filed a Review Petition (Civil) No.747 of 2004 in C.A. No.1089 of 2004 (J.C. Nigam Versus M/s. Scooter India Limited & others) before the Hon'ble Supreme Court in which the following order dated 28.4.2004 passed:-

"*We do not filed any merit in the review petition and the same is accordingly dismissed*."

Thereafter, Sri J.C. Nigam filed a Curative Petition No.152 of 2008 against order dated 28.4.2004 passed in Review Petition (Civil) No.747 of 2004 which was dismissed by an order dated 20.1.2009, quoted below:-

"*We have perused the petition and the connected papers. In our view, no case is made out within the parameters indicated in the decision of this Court in Rupa Ashok Hurra Vs. Ashok Hurra & Anr. 2002(4) SCC 388. Hence, the Curative Petition is dismissed*."

In addition to the above said facts, Hon'ble the Apex Court in the constitution bench in the case of ***Rupa Ashok Hurra Versus Ashok Hurra & Anr, 2002(4) SCC 388*** held as under:-

"Incidentally, this Court stands out to be an avenue for redressal of grievance not only in its revisional jurisdiction as conferred by the Constitution but as a platform and forum for every grievance in the country and it is on this context Mr.Shanti Bhushan, appearing in support of the some of the petitioners, submitted that the Supreme Court in its journey for over 50 years has been able to obtain the confidence of the people of the country, whenever the same is required be it the atrocities of the police or a public grievance pertaining to a governmental action involving multitudes of problems. It is the Supreme Court, Mr. Shanti Bhushan contended, where the people feel confident that justice is above all and would be able to obtain justice in its true form and sphere and this is beyond all controversies. It has been contended that finality of the proceeding after an Order of the Supreme Court, there should be, but that does not preclude or said to preclude this Court from going into the factum of the petition for gross injustice caused by an Order of the Supreme Court itself under the inherent power being an authority to correct its errors any other view should not and ought not be allowed to be continued. Needless to record here, however, that review jurisdiction stand foisted upon this Court in terms of the provisions of the Constitution, as noticed hereinbefore and it is also well-settled that a second review petition cannot be said to maintainable. Reference maybe made in this context to a decision of this Court in the case of J.Ranga Swamy v. Govt. of A.P. & Ors. (AIR 1990 SC 535), wherein this Court in paragraph 3 stated as below :-

"We are clearly of the opinion that these applications are not maintainable. The petitioner, who appeared in person, referred to the judgment in Antulay's case (1988) 2 SCC 602 : (AIR 1988 SC 1531). We are, however, of the opinion that the principle of that case is not applicable here. All the points which the petitioner urged regarding the constitutionality of the Government orders in question as well as the appointment of respondent instead of petitioner to the post in question had been urged before the Bench, which heard the civil appeal and writ petitions originally. The petitioner himself stated that he was heard by the Bench at some length. It is, therefore, clear that the matters were disposed of after a consideration of all the points urged by the petitioner and the mere fact that the order does not discuss the contentions or give reasons cannot entitle the petitioner to have what is virtually a second review."

True, due regard shall have to have as regards opinion of the Court in Ranga Swamy (supra), but the situation presently centres round that in the event of there being any manifest injustice would the doctrine of ex debito justitiae be said to be having a role to play in sheer passivity or to rise above the ordinary heights as it preaches that justice is above all. The second alternative seems to be in consonance with time and present phase of socio-economic conditions of the society. Manifest justice is curable in nature rather than incurable and this court would lose its sanctity and thus would belie the expectations of the founding fathers that justice is above all. There is no manner of doubt that procedural law/procedural justice cannot overreach the concept of justice and in the event an Order stands out to create manifest injustice, would the same be allowed to remain in silenco so as to affect the parties perpetually or the concept of justice ought to activate the Court to find a way out to resolve the erroneous approach to the problem. Mr.Attorney General, with all the emphasis in his command, though principally agreed that justice of the situation needs to be looked into and relief be granted if so required but on the same breath submitted that the Court ought to be careful enough to trade on the path, otherwise the same will open up Pandora's box and thus, if at all, in rarest of the rare cases the further scrutiny may be made. While it is true that law courts has overburdened itself with the litigation and delay in disposal of matters in the subcontinent is not unknown and in the event of any further appraisal of the matter by this Court, it would brook on further delay resulting in consequences which are not far to see but that would by itself not in my view deter this Court from further appraisal of the matter in the event the same, however, deserve such an additional appraisal The note of caution sounded by Mr. Attorney as regards opening up of pandora's box strictly speaking, however, though may be of very practical in nature but the same apparently does not seem to go well with the concept of justice as adumbrated in our constitution. True it is, that practicability of the situation needs a serious consideration more so when this Court could do without it for more than 50 years, which by no stretch of imagination can be said to be a period not so short. I feel it necessary, however, to add that it is not that we are not concerned with the consequences of reopening of the issue but the redeeming feature of our justice delivery system, as is prevalent in the country, is adherence to proper and effective administration of justice in stricto. In the event there is any affectation of such an administration of justice either by way of infraction of natural justice or an order being passed wholly without jurisdiction or affectation of public confidence as regards the doctrine of integrity in the justice delivery system technicality ought not to out-weigh the course of justice the same being the true effect of the doctrine of ex debito justitiae. The oft quoted statement of law of Lord Hewart, CJ in R v. Susssex Justices, ex p McCarthy (1924 (1) KB 256) that it is of fundamental importance that justice should not only be done, should manifestly and undoubtedly be seem to be done had this doctrine underlined and administered therein. In this context, the decision of the House of Lords in R v. Bow Street Metropolitan Stipendiary Magistrate and others, ex parte Pinochet Ugarte (No.2) seem to be an ipoc making decision, wherein public confidence on the judiciary is said to be the basic criteria of the justice delivery system any act or action even if it a passive one, if erodes or even likely to erode the ethics of judiciary, matter needs a further look. Brother Quadri has taken very great pains to formulate the steps to be taken and the methodology therefor, in the event of there being an infraction of the concept of justice, as such further dilation would be an unnecessary exercise which I wish to avoid since I have already recorded my concurrence therewith excepting, however, lastly that curative petitions ought to be treated as a rarity rather than regular and the appreciation of the Court shall have to be upon proper circumspection having regard to the three basic features of our justice delivery system to wit, the order being in contravention of the doctrine of natural justice or without jurisdiction or in the event of there is even a likelihood of public confidence being shaken by reason of the association or closeness of a judge with the subject matter in dispute. In my view, it is now time that procedural justice system should give way to the conceptual justice system and efforts of the law Court ought to be so directed. Gone are the days where implementation of draconian system of law or interpretation thereof were insisted upon - Flexibility of the law Courts presently are its greatest virtue and as such justice oriented approach is the need of the day to strive and forge ahead in the 21st century."

Thus, from the above said facts and the material on record, as the present industrial dispute stands on the same footing as of Sri Jagdish Chandra Nigam, so in view of the judgment passed Hon'ble Supreme Court in the case of Sri Jagdish Chandra Nigam thereafter in Review Petition and Curative Petition, by him which were also dismissed.

Accordingly, preliminary objection taken by learned counsel for respondent is allowed, the claim petition filed by claimant is liable to be dismissed.

Order

For the foregoing reasons the present industrial dispute is dismissed, workman is not entitled for any relief; and the reference is answered accordingly.

Lucknow.

10th March, 2025

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 23 जून, 2025

का.आ. 1130.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **प्रबंध निदेशक**, **स्कूटर्स इंडिया लिमिटेड**, **लखनऊ (यूपी)** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री उदयपाल सिंह**, **लखनऊ** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, लखनऊ पंचाट(संदर्भ संख्या **26/2012**) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल -42011/157/2011-आईआर (डीयू)]
दिलीप कुमार, अवर सचिव

New Delhi, the 23rd June, 2025

S.O. 1130.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 26/2012) of the **Central Government Industrial Tribunal cum Labour Court, Lucknow** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Managing Director, Scooters India Ltd., Lucknow (UP)** and **Sri Udaipal Singh, Lucknow,** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42011/157/2011-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR
PRESIDING OFFICER

I.D. No. 26/2012
Ref. No. L-42011/157/2011-IR(DU) dated: 05.01.2012

BETWEEN

Sri Udaipal Singh S/O Sri Rampal Singh H.No.- 147A Chandra Shekher Azad Nagar Colony Darogakhera Po-Auravan Dist.- Lucknow Uttar Pradesh

AND

The Managing Director, Scooters India Ltd.,
Sarojini Nagar, Lucknow (UP).

AWARD

On 05.01.2012 appropriate government by order no. L-42011/157/2011-IR (DU) has referred the following dispute to this Tribunal and accordingly the I.D. Case No. 26 of 2012 (Udaipal Singh vs. M/s. Scooter India Ltd.) was registered:-

> *"Whether the action of the management of Scooters India Ltd., Lucknow in not considering the application of workman Sri Udaipal* Singh *Grade 'C' dated 13.12.1993 and voluntarily retiring him w.e.f. 01.01.1994 without paying entire pensionery benefits, is legal and justified? What relief the workman is entitled to?"*

Case of claimant:s

On 27.03.2012 on behalf of workman, Statement of Claim filed stating therein the following averments :-

a) The applicant was appointed as semi skilled worker under the opposite party/employer on 09.11.1974 being fully eligible for the post and his Service No. is 1590 and he was initially granted Grade 'C'. The applicant/workman started performing his work and duties with all satisfaction of his all concerned.

b) All of sudden in the year 1993 a rumors was flown away in the campus of company that Manager of the respondent is saying that the company is going to be windup within a very short period due to heavy financial loss and as such employees may take his all service benefits as soon as possible from the company otherwise company will not responsible for the same. Those employees who will seek his

voluntary retirement under the announced voluntary retirement scheme, they will call back in job/service on requirement of work on seniority basis.

c) The applicant believing rumor on 30.11.1993 applied for his voluntary retirement with effect from 31.03.1994 under the voluntary retirement scheme dated 08.12.1988.

d) A circular dated 06.11.1993 was also circulated by the respondent stating therein that the voluntary retirement scheme circulated vide circular dated 08.12.1988 will remain suspended with effect from 01.12.1993.

e) The applicant immediately on 30.12.1993 moved an application for withdrawing his voluntary retirement, which was sought by him with effect from 31.03.1994, then he came to know that his voluntary retirement has already been accepted by the management of opposite party on the same date i.e. on which he moved an application on 30.11.1993.

f) The management was fully aware with all things but voluntary retirement of the applicant was accepted knowingly and with mal intention on the same date when the applicant submitted his VRS application i.e. on 30.11.1993 only to oust him from the job, therefore the action of the respondent is quite bad in law and unjust.

g) The applicant applied for voluntary retirement on 30.11.1993 w.e.f. 31.03.1994 but his voluntary retirement was accepted by the respondent on the same date when he moved his application on 30.11.1993. The management is well known that the VRS circulated vide letter dated 8.12.1988 will remain suspended w.e.f. 1.12.1993, therefore, action of the respondent in accepting his VRS w.e.f. 30.11.1993 instead of 31.03.1994 is fully illegal, arbitrary and unjust.

h) If the applicant's voluntary retirement was not accepted w.e.f. 30.11.1993 i.e. on the date when he moved his application for VRS, his application would be cancelled or rejected by the management of the respondent as he submitted another application dated 30.12.1993 for withdrawing his voluntary retirement and thus he would remain in job till attaining his retirement age from the job. In view of this the respondent may be directed to pay entire salary and other service benefits to the applicant from the date of his relieve till the date of his retirement.

i) It is provided in the standing orders of the company that the pay will be revised on each 5 years of employees which has not been done in the matter of the applicant before accepting his VRS. The company is quietly running till date, therefore his voluntary retirement deserves to be quashed and the respondent be directed to reinstate the applicant on the post with full salary benefits from the date of relieve from the job till his date of retirement from the post and pay his entire due salary with 12% interest to the applicant.

Accordingly, learned counsel for workman has prayed that claim of the workman may be allowed with all consequential benefits.

Case of respondent:

On 10.10.2012 the written statement filed on behalf of the respondent M/s. Scooters India Limited taking the following **preliminary objections** :-

a) The matter of dispute does not constitute a valid industrial dispute, as the dispute has not been transformed into an industrial dispute within the meaning of the terms as defined in Industrial Disputes Act 1947.

b) The Central Government has not taken facts in cognizance while making a reference to the Tribunal. The reference is not based on the pleadings of the parties advanced at the conciliation stage, especially the submissions of the respondent before the Conciliation Officer/Government have been completely ignored, while making the reference for adjudication. No cause of action arose on the date as mentioned in reference order as such also on his ground alone, the reference order is bad in the eyes of law.

c) The Industrial Disputes Act 1947 has been amended vide Industrial Disputes (Amendment) Act, 2010 (Act No.24 of 2010) and period of limitation has been provided by virtue of Section 2A(3), which is quoted as below:-

> *"2A(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section (1)"*

d) A period of limitation has been provided i.e. three years from the alleged date of termination of services, but the instant case has arisen after a period of 18 years which is liable to the dismissed on the ground of limitation alone.

e) Even otherwise, the applicant has not raised industrial dispute within reasonable time. The applicant has raised an industrial dispute regarding his acceptance of Voluntary Retirement very belatedly i.e. after elapse of more than about 18 years. It is trite law as held by the Apex Court that the dispute must be raised within reasonable period of time from the cause of action and where the industrial dispute is not raised within reasonable period of time the Labour Court or Industrial Tribunal should decline to grant any interim relief to the workman.

f) The Apex Court in the case of Nedungadi Bank Ltd. Versus K.P. Madhavankutty & others : 2000 (84) FLR 673 SC, S.M. Niljakar Vs. Telecom District Manager, Karnataka:2003(97) FLR 608 SC, Manager R.B.I. Vs. Gopinath Sharma : 2006 FLR (110) FLR 803 SC has already held that the dispute must be raised within reasonable period of time from the cause of action and a dispute which is state could not be subject matter of reference.

g) The present reference is highly belated, inasmuch as it is made after more than eighteen years from the alleged date of cause of action. The instant delay caused prejudice to the respondent since the management not presumed to preserve the relevant record for such a long period.

h) It is settled law of the land that the person who is approaching this Tribunal should come with clean hand but in the instant matter, the applicant has concealed the actual material facts which are very necessary for the purposes of the adjudication of present matter of dispute, if any, as such also the reference is not maintainable before this Tribunal and accordingly deserves to be rejected.

i) That it is pertinent to mention here that earlier the applicant preferred a writ petition No. 2620 (S / S) of 2000: Rajendra Singh and others Vs. Scooters India Limited and others along with some other ex-employees of the Company before the Hon'ble High Court, Lucknow Bench, Lucknow challenging the order passed by the competent authority and the Hon'ble High Court had been pleased to dismissed the aforesaid writ petition including bunch of writ petitions bearing W.P. No. 2146 (S/S) of 2000, W.P. No. 6654 (S / S) of 1999, W.P. No. 1624 (S / S) of 2000, W.P. No. 1625 (S / S) of 2000, W.P. No. 1745 (S / S) of 2000, W.P. No. 1744 (S / S) of 2000, W.P. No. 1635 (S / S) of 2000, and W.P. No. 6099 (S / S) of 1999 vide judgment and order dated 08.02.2006 after holding that there is no dispute that the petitioners themselves had approached the scheme and had accepted all the benefits and after accepting all the benefits, after a lapse of long time, had tried to raise this dispute. Further the Hon'ble Court has held that the Conciliation Officer, in these circumstances for sufficient reasons disallowed the application of the petitioners.

j) A Review Petition No. 76 of 2006 was also filed by the aggrieved persons of Writ Petition No. 2620 (S/S) of 2000, which has also been dismissed by the Hon'ble High Court, Lucknow Bench, Lucknow vide its judgment and order dated 13.05.2008. Thus, it is clear that the matter has already been adjudicated upon by the competent Court of law and these facts have not been disclosed by the applicant in their written statement, which amounts to concealment of facts and the instant application is liable to be dismissed on this ground alone..

k) An identical situated employee had also preferred a Writ Petition No.1165(SS) of 1994:Jagdish Chandra Nigam Versus M/s. Scooters India Limited before the Hon’ble High Court, Lucknow Bench, Lucknow challenging the action of the management in accepting the application for voluntary retirement, which has been dismissed by means of detail judgment and order dated 09.01.1997.

l) Being aggrieved from the aforesaid judgment and order dated 9.1.1997, Special Appeal No. 48 (SB) of 1997 was preferred before the Division Bench of the Hon’ble High Court, Lucknow Bench, Lucknow and after conducting the necessary proceedings, the Hon’ble Division Bench of the Hon’ble High Court decided the said special appeal by means of judgment and order dated 18.12.2000 and set aside the judgment and order passed by the Single Judge to the extent that in case of the appellant/petitioner deposits the entire amount which he has received through cheque dated 12.3.1994 along with interest at the rate of 12% with respondent company as well as other benefits which might have been given to the appellant within four weeks from the production of certified copy of the order, the appellant will be reinstated in service.

m) The management preferred Special Leave Petition challenging the judgment and order dated 18.12.2000 before the Hon’ble Supreme Court of India, which was letter on converted into Civil Appeal No.1089 of 2004:M/s. Scooters India Limited & others Vs. Jagdish Chandra Nigam which was allowed by means of the judgment and order dated 12.2.2004 and the judgment and order dated 18.12.2000 rendered by the Division Bench of the High Court, Lucknow Bench, Lucknow has been set aside.

n) Being aggrieved from the judgment and order dated 12.2.2004, Sri Jagdish Chandra Nigam had preferred a Review Petition No.747 of 2004: J.C. Nigam Vs. M/s. Scooters India Limited, which has also been dismissed by the Hon’ble Supreme Court of India vide its judgment and order dated 28.4.2004. Sri Nigam also preferred a Curative Petition No.152 of 2008 and the same has also been dismissed by the Constitution Bench of Hon’ble Supreme Court vide its judgment and order dated 21.1.2009. Thus it is crystal clear that

the matter in dispute has already been decided by the competent court of law and now nothing remains to be adjudicated upon by this Tribunal.

o) It is crystal clear that the principles of res-judicata applies into the matter and accordingly the reference is liable to be rejected, out rightly without going into the merit of the case.

Accordingly, it has been prayed by respondent that the present industrial dispute may be dismissed being devoid of any merit.

Thereafter documents, evidences etc. had been exchanged between the parties. The respondent submits that the preliminary objections taken by them may be considered first and thereafter the matter be heard on merits.

Finding & conclusion on the Preliminary Objections:

I have gone through the pleadings made by the parties and evidence available on record.

It is not in dispute between the parties that Sri Udaipal Singh -applicant/workman was appointed as semi-skilled worker in establishment known as Scooter India Limited on 09.11.1974, Grade-C having service No. 1590. Scooter India Limited floated a scheme known as Voluntary Retirement (hereinafter referred to as 'VRS').

On 30.11.1993 applicant submitted an application for opting VRS and the same was accepted by the respondent on 30.11.1993 and his date of release under the said scheme was notified as 01.01.1994 and consequently applicant was voluntary retired from service under the Scheme with all consequential benefits and the same were received by him.

Meanwhile on 6.11.1993 a circular was issued which reads as under:-

"*Sub: Voluntary Retirement Scheme – suspension thereof*

The Voluntary retirement scheme circulated vide circular no.SIL/PER/NC-63/88 dated 8.12.88 for the employees of the Company will remain suspended w.e.f.1.12.1993."

So a letter/representation dated 30.12.1993, submitted by applicant for withdrawal/rejection of his application dated 30.11.1993 for voluntary retirement from services on the ground mentioned therein.

From the material on record the position which emerges out that initially aggrieved by the action of the respondent thereby not considering application of the workman/applicant dated 30.12.1993 for rejecting/withdrawing acceptance of voluntary retirement by him under the scheme known as Voluntary Retirement Scheme, he raised a industrial dispute under Section 2-A of Industrial Disputes Act which rejected by the Conciliation Officer.

Aggrieved by the said facts, other similarly situated employees filed a Writ Petition no. 1129 (SS) of 1995 (Samsuddin & others Versus M/s. Scooter India Limited & others).

The said writ petition was heard by the Hon'ble High Court along with leading Writ Petition No.2146 (SS) of 2000 (S.V. Jaiswal Versus M/s. Scooter India Limited & others).

By means of order dated 8.2.2006 the Hon'ble High Court dismissed the Writ Petition No.2146 (SS) of 2000 along with other connected writ petitions including the Writ Petition No. 1129 (SS) of 1995, the relevant portion, quoted below:-

"*The question whether voluntary retirement would come under the definition of retrenchment or compulsory retirement or not, was considered in a number of cases which have been relied upon by the learned counsel appearing on behalf of the opposite party, one main of them has been reported in 1997(2), UPLBEC 1262, Jagdish Chand Nigam Vs. Scooter India Limited.*

In similar circumstances, the petitioners had taken voluntary retirement. The Bench of this court observed that the petitioner had occupied offer of his premature retirement, in order to receive the compensation, for the last tenure of service offered by the respondents. The offer made by the employers was accepted by the employees. The benefits provided by the respondents under this scheme were accepted by the petitioner. Since the workman had accepted the scheme and himself had opted to retire under this scheme, he cannot be allowed to approbate or reprobate. In the present case of the petitioner, the employees had accepted all benefits under the Voluntary Retirement Scheme, so they cannot retract from the obligations and exercise their right, integrally connected with the performance of the obligations under the Voluntary Retirement Scheme.

In view of the above facts and in view of the principles of law laid down in the above noted case and after accepting offer of huge incentive, they now cannot withdraw their resignation and if their services had come to an end on account of it, they cannot be allowed to raise it in this manner as their grievance. The Hon'ble Apex Court in Special Leave Petition affirmed this judgment. The same principles were laid down by the Hon'ble Apex Court in another case reported in 2004(100) FLR 648, Punjab National Bank Vs. Virendra Kumar Goel and others and AIR 2003 SC 858, Bank of India with other banks Vs. Virendra Kumar Goel and others, wherein it was laid down that retirement was to take effect only after the request was accepted. Such

scheme is only an intimation to offer which can be withdrawn before it is accepted contractual bar created under the scheme to withdraw the request once made by employees cannot be made.

In the present case there is no dispute that the petitioners themselves had approached the scheme and had accepted all the benefits and after accepting all the benefits, after a lapse of long time, had tried to raise this dispute. The Conciliation Officer, in these circumstances for sufficient reasons allowed the application of the petitioners.

I find no merit in these writ petitions. They are fit to be dismissed and are accordingly dismissed with costs."

However, above said facts have been concealed by applicant while filing the present I.D. Case with oblique motive and purpose.

Further, one Sri Jagdish Chandra Nigam whose case was identical to the case of claimant, filed a Special Appeal No.48 (SB) of 1997, allowed by means of judgment and order dated 18.12.2000 (reported in 2000CJ(All) 309), the relevant portion, quoted below:-

"18. The appeal is allowed. The judgment and order passed by the Hon'ble the single Judge is set aside to the extent, the observations made in the foregoing paragraph of this judgment. But we provide that in case the appellant deposits the entire amount which he has received through cheque dated March 12, 1994 alongwith interest at the rate of 12% with Scooters India Limited, as well as other benefits which might have been given to the appellant within four weeks from the date of production of the certified copy of this order, the appellant will be reinstated in service. But considering the facts and circumstances of the case, we further provide that the appellant will not be entitled for payment of back wages.

19. As far as the case of the petitioners of other writ petitions are concerned, the fact of those writ petitioners are not exactly identical to the facts which have been indicated in the present Special Appeal. But as this Court has decided the present Special Appeal more or less on same propositions of law although the fact might be different, we heard the arguments of the learned counsel for the parties in all the writ petitions alongwith special appeal, which are connected with this special appeal as well.

20. As we have already indicated that those employees who withdrew their application for voluntary retirement before the prospective date mentioned in the original application for voluntary retirement, shall he entitled for the relief. But those persons, who have not withdrawn their voluntary retirement before the prospective date, would not be entitled for any relief.

21. We further provide that those petitioners, who opted for the Voluntary Retirement Scheme from a prospective date and withdrew their resignations before the said prospective date, but were, relieved by the management of the Scooters India Ltd. would be entitled to the relief as Jagdish Chandra Nigam has been provided, provided they filed the writ petitions within one month from the date of the relieving orders. If they had filed the writ petition after one month from the date of relieving orders, they would not be entitled for any relief.

22. With the aforesaid observations, the Special Appeal as well as all the writ petitions are disposed of."

Judgment/order dated 18.12.2000 challenged by way of filing a S.L.P. having Special Leave Petition (Civil) No.10352/2001 (M/s. Scooters India Ltd & others versus Jagdish Chandra Nigam) along with other S.L.P.s which were connected. In the above noted S.L.P. an order dated 12.2.2004 was passed by the Hon'ble Supreme Court which reads as under:-

"*Leave Granted.*

For the reasons stated in our order passed today in C.A. No.4098/2002, this appeal is allowed.

The order and judgment under challenge is set aside. There shall be no order as to costs."

Thus, as per the order passed by the Hon'ble Supreme Court, the S.L.P. filed by M/s. Scooters India Limited was allowed and judgment and order passed in the case of Special Appeal filed by Sri Jagdish Chandra Nigam was set aside/S.L.P. filed by Sri Jagdish Chandra Nigam was dismissed.

Moreover order passed by the Hon'ble Supreme Court in Special Leave Petition (Civil) No.10352/2001 (M/s. Scooters India Ltd & others versus Jagdish Chandra Nigam) based upon order dated 12.2.2004 passed by the Hon'ble Supreme Court in C.A. No.4098 of 2002 (Bank of India & others Vs. Pale Ram Dhania), reproduced below:-

"1. It is not disputed that the appellant Bank introduced a Voluntary Retirement Scheme, 2000 (herein referred to as "the Scheme") for its employees which had the approval of its Board of Directors. The Scheme was operative w.e.f. November 15, 2000 to December 14, 2000 for the employees who sought voluntary retirement. It is not disputed that the respondent herein who was an employee of the appellant Bank sought

voluntary retirement under the Scheme on November 30, 2000. It is also not disputed that on December 2, 2000 he wrote to the Bank for withdrawal of his application for voluntary retirement. On January 22, 2001, the appellant Bank accepted the request for voluntary retirement of the respondent. Further, on January 25, 2001, the respondent withdrew the retiral benefits deposited in the Bank in his name as per voluntary retirement. It appears that the respondent changed his mind after the respondent was relieved from the employment and he filed a petition under Article 226 of the Constitution challenging the acceptance of his request for voluntary retirement. A learned Single Judge of the High Court allowed the petition and set aside the acceptance of the application for voluntary retirement submitted by the respondent. Aggrieved, the appellants preferred a letters patent appeal which was dismissed. It is against the said judgment, the appellants are in appeal before us.

2. A Bench of three Judges of this Court in Punjab National Bank v. Virender Kumar Goel , has held that an employee who sought voluntary retirement and subsequently wrote for its withdrawal but has withdrawn the amount of retiral benefits as per the Voluntary Retirement Scheme, is not entitled to the withdrawal of his application for voluntary retirement. It is not disputed that in the present case the respondent herein withdrew the amount of retiral benefits on January 25, 2001.

3. For the aforesaid reason, this appeal deserves to be allowed. We order accordingly. The order and judgment under challenge is set aside. There shall be no order as to costs".

In Review Petition (Civil) No. 53 of 2003 arising out of Appeal (Civil) No.896 of 2002 (Punjab National Bank Versus Virender Kumar Goel & others), the Hon'ble Supreme Court on 21.1.2004 passed an order. The relevant of order dated 21.1.2004 reads as under:-

"I.A.NOS. 1-22

These applications have been filed by the State Bank of Patiala for clarification/directions. The ground taken in these applications is that the State Bank of Patiala is not a nationalised bank. It is hundred per cent a subsidiary of the State Bank of India. The VRS scheme floated by the State Bank of Patiala is in para-materia with the scheme floated by the State Bank of India. This Court in the judgment dated 17.12.2002 allowed the appeals filed by the State Bank of India but nothing has been said about the appeals filed by the State Bank of Patiala. In the interregnum, a two-Judge Bench of this Court, in which one of us (Sema, J) was a member, considered the same question in Civil Appeal No. 2341 of 2003 arising out of Special Leave Petition No. 23530 of 2002 entitled State Bank of Patiala Vs. Jagga Singh, disposed of on 13.3.2003, where this Court after considering Clause 8 of the scheme floated by the State Bank of Patiala and Clause 7 of the scheme floated by the State Bank of India, had held that the scheme floated by the State Bank of Patiala is almost identical of the scheme floated by the State Bank of India. Accordingly, the appeal filed by the State Bank of Patiala was allowed. Review Petition was also dismissed on 3.12.2003. In view thereof, we clarify that our direction No.2, allowing the appeals filed by the State Bank of India, would also include the appeals filed by the State Bank of Patiala. In other words, the appeals filed by the State Bank of Patiala are allowed in terms of our judgment dated 17.12.2002. I.A.NOS. 14-15 I.A.No.14 has been filed by an employee of the bank sought to clarify/modify our order dated 17.12.2002. In this case, admittedly, the benefit of the scheme had been withdrawn by the applicant on 27.2.2001. The applicant had clearly admitted, in ground E of the application, withdrawal of the amount so credited in his account, albeit compelling financial constraints.

I.A.No.15 has been filed by an employee of the bank for clarification/modification of our order dated 17.12.2002. In para 6 of the application, the applicant admitted that he had withdrawn and utilised the benefit of the scheme credited in his account.

As noticed in our judgment, having accepted the benefit under the scheme by withdrawing and utilisation thereof they are not permitted to approbate and reprobate."

Moreover Sri J.C. Nigam filed a Review Petition (Civil) No.747 of 2004 in C.A. No.1089 of 2004 (J.C. Nigam Versus M/s. Scooter India Limited & others) before the Hon'ble Supreme Court in which the following order dated 28.4.2004 passed:-

"*We do not filed any merit in the review petition and the same is accordingly dismissed*."

Thereafter, Sri J.C. Nigam filed a Curative Petition No.152 of 2008 against order dated 28.4.2004 passed in Review Petition (Civil) No.747 of 2004 which was dismissed by an order dated 20.1.2009, quoted below:-

"*We have perused the petition and the connected papers. In our view, no case is made out within the parameters indicated in the decision of this Court in Rupa Ashok Hurra Vs. Ashok Hurra & Anr. 2002(4) SCC 388. Hence, the Curative Petition is dismissed*."

In addition to the above said facts, Hon'ble the Apex Court in the constitution bench in the case of ***Rupa Ashok Hurra Versus Ashok Hurra & Anr, 2002(4) SCC 388*** held as under:-

"Incidentally, this Court stands out to be an avenue for redressal of grievance not only in its revisional jurisdiction as conferred by the Constitution but as a platform and forum for every grievance in the country and it is on this context Mr.Shanti Bhushan, appearing in support of the some of the petitioners, submitted that the Supreme Court in its journey for over 50 years has been able to obtain the confidence of the people of the country, whenever the same is required be it the atrocities of the police or a public grievance pertaining to a governmental action involving multitudes of problems. It is the Supreme Court, Mr. Shanti Bhushan contended, where the people feel confident that justice is above all and would be able to obtain justice in its true form and sphere and this is beyond all controversies. It has been contended that finality of the proceeding after an Order of the Supreme Court, there should be, but that does not preclude or said to preclude this Court from going into the factum of the petition for gross injustice caused by an Order of the Supreme Court itself under the inherent power being an authority to correct its errors any other view should not and ought not be allowed to be continued. Needless to record here, however, that review jurisdiction stand foisted upon this Court in terms of the provisions of the Constitution, as noticed hereinbefore and it is also well-settled that a second review petition cannot be said to maintainable. Reference maybe made in this context to a decision of this Court in the case of J.Ranga Swamy v. Govt. of A.P. & Ors. (AIR 1990 SC 535), wherein this Court in paragraph 3 stated as below :-

"We are clearly of the opinion that these applications are not maintainable. The petitioner, who appeared in person, referred to the judgment in Antulay's case (1988) 2 SCC 602 : (AIR 1988 SC 1531). We are, however, of the opinion that the principle of that case is not applicable here. All the points which the petitioner urged regarding the constitutionality of the Government orders in question as well as the appointment of respondent instead of petitioner to the post in question had been urged before the Bench, which heard the civil appeal and writ petitions originally. The petitioner himself stated that he was heard by the Bench at some length. It is, therefore, clear that the matters were disposed of after a consideration of all the points urged by the petitioner and the mere fact that the order does not discuss the contentions or give reasons cannot entitle the petitioner to have what is virtually a second review."

True, due regard shall have to have as regards opinion of the Court in Ranga Swamy (supra), but the situation presently centres round that in the event of there being any manifest injustice would the doctrine of ex debito justitiae be said to be having a role to play in sheer passivity or to rise above the ordinary heights as it preaches that justice is above all. The second alternative seems to be in consonance with time and present phase of socio-economic conditions of the society. Manifest justice is curable in nature rather than incurable and this court would lose its sanctity and thus would belie the expectations of the founding fathers that justice is above all. There is no manner of doubt that procedural law/procedural justice cannot overreach the concept of justice and in the event an Order stands out to create manifest injustice, would the same be allowed to remain in silenco so as to affect the parties perpetually or the concept of justice ought to activate the Court to find a way out to resolve the erroneous approach to the problem. Mr.Attorney General, with all the emphasis in his command, though principally agreed that justice of the situation needs to be looked into and relief be granted if so required but on the same breath submitted that the Court ought to be careful enough to trade on the path, otherwise the same will open up Pandora's box and thus, if at all, in rarest of the rare cases the further scrutiny may be made. While it is true that law courts has overburdened itself with the litigation and delay in disposal of matters in the subcontinent is not unknown and in the event of any further appraisal of the matter by this Court, it would brook on further delay resulting in consequences which are not far to see but that would by itself not in my view deter this Court from further appraisal of the matter in the event the same, however, deserve such an additional appraisal The note of caution sounded by Mr. Attorney as regards opening up of pandora's box strictly speaking, however, though may be of very practical in nature but the same apparently does not seem to go well with the concept of justice as adumbrated in our constitution. True it is, that practicability of the situation needs a serious consideration more so when this Court could do without it for more than 50 years, which by no stretch of imagination can be said to be a period not so short. I feel it necessary, however, to add that it is not that we are not concerned with the consequences of reopening of the issue but the redeeming feature of our justice delivery system, as is prevalent in the country, is adherence to proper and effective administration of justice in stricto. In the event there is any affectation of such an administration of justice either by way of infraction of natural justice or an order being passed wholly without jurisdiction or affectation of public confidence as regards the doctrine of integrity in the justice delivery system technicality ought not to out-weigh the course of justice the same being the true effect of the doctrine of ex debito justitiae. The oft quoted statement of law of Lord Hewart, CJ in R v. Susssex Justices, ex p McCarthy (1924 (1) KB 256) that it is of fundamental importance that justice should not only be done, should manifestly and undoubtedly be seem to be done had this doctrine underlined and administered therein. In this context, the decision of the House of Lords in R v. Bow Street Metropolitan Stipendiary Magistrate and others, ex parte Pinochet Ugarte (No.2) seem to be an ipoc making decision, wherein public confidence on the judiciary is said to be the basic criteria of the justice delivery system any act or action even if it a passive one, if erodes or even likely to erode the ethics of judiciary, matter needs a further look. Brother Quadri has taken very great pains to formulate the steps to be

taken and the methodology therefor, in the event of there being an infraction of the concept of justice, as such further dilation would be an unnecessary exercise which I wish to avoid since I have already recorded my concurrence therewith excepting, however, lastly that curative petitions ought to be treated as a rarity rather than regular and the appreciation of the Court shall have to be upon proper circumspection having regard to the three basic features of our justice delivery system to wit, the order being in contravention of the doctrine of natural justice or without jurisdiction or in the event of there is even a likelihood of public confidence being shaken by reason of the association or closeness of a judge with the subject matter in dispute. In my view, it is now time that procedural justice system should give way to the conceptual justice system and efforts of the law Court ought to be so directed. Gone are the days where implementation of draconian system of law or interpretation thereof were insisted upon - Flexibility of the law Courts presently are its greatest virtue and as such justice oriented approach is the need of the day to strive and forge ahead in the 21st century."

Thus, from the above said facts and the material on record, as the present industrial dispute stands on the same footing as of Sri Jagdish Chandra Nigam, so in view of the judgment passed Hon'ble Supreme Court in the case of Sri Jagdish Chandra Nigam thereafter in Review Petition and Curative Petition, by him which were also dismissed.

Accordingly, preliminary objection taken by learned counsel for respondent is allowed, the claim petition filed by claimant is liable to be dismissed.

ORDER

For the foregoing reasons the present industrial dispute is dismissed, workman is not entitled for any relief; and the reference is answered accordingly.

Lucknow.

10th March, 2025.

Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 23 जून, 2025

का.आ. 1131.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **अध्यक्ष, उड़ीसा झींगा बीज उत्पादन आपूर्ति एवं अनुसंधान केंद्र (ओएसएसपीएआरसी) केरल** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री मनु नायक, ओडिशा** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, भुवनेश्वर पंचाट **(संदर्भ संख्या 44/2016)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल - 42025-07-2025-145- आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 23rd June, 2025

S.O. 1131.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 44/2016**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The President, Orissa Shrimp Seed Production Supply & Research Centre (OSSPARC), Kerala** and **Sri Manu Nayak, Odisha** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42025-07-2025-145-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour Court,

Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 44/2016

Filed under section 2(A)(2) of the Industrial Disputes Act.

Date of Passing Order – 25th February, 2025

Between :-

Sri Manu Nayak,

S/o. Abhimanyu Nayak, Gandhi Nagar Main Road,

Infront of Hotel Moti, Berhampur,

Dist. Ganjam, Odisha.

… Applicant-Workman.

(And)

The President, Orissa Shrimp Seed Production

Supply & Research Centre (OSSPARC) MPEDA House,

Panampilly Avenue, Kochi – 682 036, Kerala.

… Management-Opp. Party.

Appearances:

Mr. Amar Shoo, Advocate.… For the 1st Party-Management.

Mr. Kailah Chandra Mishra… For the Applicant-Workman.

ORDER

This order is being passed on an application of applicant-workman filed under section 2-A(2) of the Industrial Disputes Act (herein-after referred as an Act).

2. The case of the applicant-workman as per his statement of claim is as follows:-

That he was working under the 1st Party-Management since 25.10.1991 and he was illegally relieved from service on 31.03.2009 by the 1st Party-Management, whereas he had been assured by the 1st Party-Management for disbursement of his arrear dues as well as his rehabilitation. The 1st Party-Management has formulated Service Rules and as per the said rule on successful completion of probation on first appointment every employee shall be confirmed. As per the rules formulated by the Management the date of retirement from service was 60 years and there was no such provision for voluntary retirement scheme, but calling the workman by the Management to submit option for VR Scheme was unconstitutional. Though, he did not opt for VR Scheme floated by the Management he was forced to sign the format for VR Scheme and he was assured for rehabilitation for his livelihood. Since, the action of the Management was neither legal nor justified the 2nd party-workman raised a dispute before the R.L.C.(C) Bhubaneswar on dated 28.11.2013 and when the matter was not resolved he had filed this application under section 2-A(2) of the Act with a prayer to pass an order of his reinstatement of his service with full back wages.

3. The case of the 1st Party-Management as per its written statement is as follows:-

That the present proceeding filed by the applicant under section 2-A(2) of the I.D. Act is not maintainable in the eye of law as the same is grossly barred by limitation. The applicant workman has voluntarily opted for Special VR Scheme floated by the Management and the workman has received all the benefits under Special V.R. scheme. After that the applicant-workman in an afterthought and with ill intention had raised industrial dispute under section 2A(2) of the I.D. Act which is grossly barred by limitation. The applicant workman has voluntarily taken retirement on 31.03.2009 from his service by way of opting special V.R. Scheme floated by the Management and also received all the benefits accrued to him, so the allegation of illegal removal from service on 31.03.2009 by the Management is false, frivolous and baseless. In the Industrial Disputes (Amendment) Act, 2010 Section 2(A)(2) & (3) are inserted for the benefits of the workman to raise his dispute with the management connected with or arising out of discharge, dismissal, retrenchment or termination, directly before Labour Court or Tribunal within a specific period of three years of such alleged dispute, but the applicant has filed his application much after three years.

A prayer has been made to reject the application of the applicant-workman on the ground of limitation.

4. After going through the pleadings of both the parties it is quite apparent that the 2nd party-workman/applicant has filed this application under section 2-A(2) of the I.D. Act on 28.06.2016 whereas it is the claim of the applicant that he was relieved from service on 31.03.2009.

5. At this stage the Tribunal thinks it proper to discuss here the provisions of the Section – 2(A)(3) of the I.D. Act:-

Section 2-A(3) of the Act specifically provides that the application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment, or otherwise termination of service as specified in sub-section(1).

6. In the instant case the applicant-workman has raised the dispute under section 2-A(2) of the Act after expiry of more than seven years of his alleged termination/retrenchment, so the petition filed by the applicant is not within the prescribed period provided under the provisions of the I.D. Act.

7. After considering all the facts and circumstances of the case the Tribunal finds and holds that the application filed under section 2-A(2) of the I.D. Act is not maintainable as it is time barred. Hence, the application filed under section 2-A(2) of the Industrial Disputes Act is rejected and the case is dismissed.

8. Order is passed accordingly.

9. A copy of this order is sent to the appropriate government for notification as required under section 17 of the I.D. Act, 1947. File is consigned to record room.

Dictated &Corrected by me.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 23 जून, 2025

का.आ. 1132.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **अध्यक्ष, उड़ीसा झींगा बीज उत्पादन आपूर्ति एवं अनुसंधान केंद्र (ओएसएसपीएआरसी) केरल** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री बी. राजेया रेड्डी, ओडिशा** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, भुवनेश्वर पंचाट **(संदर्भ संख्या 46/2016)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल - 42025-07-2025-147- आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 23rd June, 2025

S.O. 1132.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 46/2016**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The President, Orissa Shrimp Seed Production Supply & Research Centre (OSSPARC), Kerala** and **Sri B. Rajeya Reddy, ,Odisha** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42025-07-2025-147-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 46/2016
Filed under section 2(A)(2) of the Industrial Disputes Act.

Date of Passing Order – 25th February, 2025

Between :-

Sri B. Rajeya Reddy,
S/o. Late B. Asantullu, Mandiapalli,
P.O. Rangailunda, Via – Vanja Vihar,
Berhampur, Dist. Ganjam, Odisha.

… Applicant-Workman.

(And)

The President, Orissa Shrimp Seed Production
Supply & Research Centre (OSSPARC) MPEDA House,
Panampilly Avenue, Kochi – 682 036, Kerala.

… Management-Opp. Party.

Appearances:

Mr. Amar Shoo, Advocate.… For the 1st Party-Management.
Mr. Kailah Chandra Mishra… For the Applicant-Workman.

ORDER

This order is being passed on an application of applicant-workman filed under section 2-A(2) of the Industrial Disputes Act (herein-after referred as an Act).

2. The case of the applicant-workman as per his statement of claim is as follows:-

That he was working under the 1st Party-Management since 31.03.1988 and he was illegally relieved from service on 31.03.2009 by the 1st Party-Management, whereas he had been assured by the 1st Party-Management for disbursement of his arrear dues as well as his rehabilitation. The 1st Party-Management has formulated Service Rules and as per the said rule on successful completion of probation on first appointment every employee shall be confirmed. As per the rules formulated by the Management the date of retirement from service was 60 years and there was no such provision for voluntary retirement scheme, but calling the workman by the Management to submit option for VR Scheme was unconstitutional. Though, he did not opt for VR Scheme floated by the Management he was forced to sign the format for VR Scheme and he was assured for rehabilitation for his livelihood. Since, the action of the Management was neither legal nor justified the 2nd party-workman raised a dispute before the R.L.C.(C) Bhubaneswar on dated 28.11.2013 and when the matter was not resolved he had filed this application under section 2-A(2) of the Act with a prayer to pass an order of his reinstatement of his service with full back wages.

3. The case of the 1st Party-Management as per its written statement is as follows:-

That the present proceeding filed by the applicant under section 2-A(2) of the I.D. Act is not maintainable in the eye of law as the same is grossly barred by limitation. The applicant workman has voluntarily opted for Special VR Scheme floated by the Management and the workman has received all the benefits under Special V.R. scheme. After that the applicant-workman in an afterthought and with ill intention had raised industrial dispute under section 2A(2) of the I.D. Act which is grossly barred by limitation. The applicant workman has voluntarily taken retirement on 31.03.2009 from his service by way of opting special V.R. Scheme floated by the Management and also received all the benefits accrued to him, so the allegation of illegal removal from service on 31.03.2009 by the Management is false, frivolous and baseless. In the Industrial Disputes (Amendment) Act, 2010 Section 2(A)(2) & (3) are inserted for the benefits of the workman to raise his dispute with the management connected with or arising out of discharge, dismissal, retrenchment or termination, directly before Labour Court or Tribunal within a specific period of three years of such alleged dispute, but the applicant has filed his application much after three years.

A prayer has been made to reject the application of the applicant-workman on the ground of limitation.

4. After going through the pleadings of both the parties it is quite apparent that the 2nd party-workman/applicant has filed this application under section 2-A(2) of the I.D. Act on 28.06.2016 whereas it is the claim of the applicant that he was relieved from service on 31.03.2009.

5. At this stage the Tribunal thinks it proper to discuss here the provisions of the Section – 2(A)(3) of the I.D. Act:-

Section 2-A(3) of the Act specifically provides that the application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment, or otherwise termination of service as specified in sub-section(1).

6. In the instant case the applicant-workman has raised the dispute under section 2-A(2) of the Act after expiry of more than seven years of his alleged termination/retrenchment, so the petition filed by the applicant is not within the prescribed period provided under the provisions of the I.D. Act.

7. After considering all the facts and circumstances of the case the Tribunal finds and holds that the application filed under section 2-A(2) of the I.D. Act is not maintainable as it is time barred. Hence, the application filed under section 2-A(2) of the Industrial Disputes Act is rejected and the case is dismissed.

8. Order is passed accordingly.

9. A copy of this order is sent to the appropriate government for notification as required under section 17 of the I.D. Act, 1947. File is consigned to record room.

Dictated &Corrected by me.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 23 जून, 2025

का.आ. 1133.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **अध्यक्ष, उड़ीसा झींगा बीज उत्पादन आपूर्ति एवं अनुसंधान केंद्र (ओएसएसपीएआरसी) केरल** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री ए. नागेश्वर राव, ओडिशा** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, भुवनेश्वर पंचाट **(संदर्भ संख्या 47/2016)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल - 42025-07-2025-148- आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 23rd June, 2025

S.O. 1133.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 47/2016**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The President, Orissa Shrimp Seed Production Supply & Research Centre (OSSPARC), Kerala** and **Sri A. Nageswar Rao, Odisha** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42025-07-2025-148-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour Court,

Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 47/2016

Filed under section 2(A)(2) of the Industrial Disputes Act.

Date of Passing Order – 25th February, 2025

Between :-

Sri A. Nageswar Rao,

S/o. Late A. Simadri, Deegipur,

Gopalpur-on-Sea,

Dist. Ganjam, Odisha.

… Applicant-Workman.

(And)

The President, Orissa Shrimp Seed Production

Supply & Research Centre (OSSPARC) MPEDA House,

Panampilly Avenue, Kochi – 682 036, Kerala.

… Management-Opp. Party.

Appearances:

Mr. Amar Shoo, Advocate…. For the 1st Party-Management.

Mr. Kailah Chandra Mishra… For the Applicant-Workman.

ORDER

This order is being passed on an application of applicant-workman filed under section 2-A(2) of the Industrial Disputes Act (herein-after referred as an Act).

2. The case of the applicant-workman as per his statement of claim is as follows:-

That he was working under the 1st Party-Management since 01.05.1993 and he was illegally relieved from service on 31.03.2009 by the 1st Party-Management, whereas he had been assured by the 1st Party-Management for disbursement of his arrear dues as well as his rehabilitation. The 1st Party-Management has formulated Service Rules and as per the said rule on successful completion of probation on first appointment every employee shall be confirmed. As per the rules formulated by the Management the date of retirement from service was 60 years and there was no such provision for voluntary retirement scheme, but calling the workman by the Management to submit option for VR Scheme was unconstitutional. Though, he did not opt for VR Scheme floated by the Management he was forced to sign the format for VR Scheme and he was assured for rehabilitation for his livelihood. Since, the action of the Management was neither legal nor justified the 2nd party-workman raised a dispute before the R.L.C.(C) Bhubaneswar on dated 28.11.2013 and when the matter was not resolved he had filed this application under section 2-A(2) of the Act with a prayer to pass an order of his reinstatement of his service with full back wages.

3. The case of the 1st Party-Management as per its written statement is as follows:-

That the present proceeding filed by the applicant under section 2-A(2) of the I.D. Act is not maintainable in the eye of law as the same is grossly barred by limitation. The applicant workman has voluntarily opted for Special VR Scheme floated by the Management and the workman has received all the benefits under Special V.R. scheme. After that the applicant-workman in an afterthought and with ill intention had raised industrial dispute under section 2A(2) of the I.D. Act which is grossly barred by limitation. The applicant workman has voluntarily taken retirement on 31.03.2009 from his service by way of opting special V.R. Scheme floated by the Management and also received all the benefits accrued to him, so the allegation of illegal removal from service on 31.03.2009 by the Management is false, frivolous and baseless. In the Industrial Disputes (Amendment) Act, 2010 Section 2(A)(2) & (3) are inserted for the benefits of the workman to raise his dispute with the management connected with or arising out of discharge, dismissal, retrenchment or termination, directly before Labour Court or Tribunal within a specific period of three years of such alleged dispute, but the applicant has filed his application much after three years.

A prayer has been made to reject the application of the applicant-workman on the ground of limitation.

4. After going through the pleadings of both the parties it is quite apparent that the 2nd party-workman/applicant has filed this application under section 2-A(2) of the I.D. Act on 28.06.2016 whereas it is the claim of the applicant that he was relieved from service on 31.03.2009.

5. At this stage the Tribunal thinks it proper to discuss here the provisions of the Section – 2(A)(3) of the I.D. Act:-

Section 2-A(3) of the Act specifically provides that the application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment, or otherwise termination of service as specified in sub-section(1).

6. In the instant case the applicant-workman has raised the dispute under section 2-A(2) of the Act after expiry of more than seven years of his alleged termination/retrenchment, so the petition filed by the applicant is not within the prescribed period provided under the provisions of the I.D. Act.

7. After considering all the facts and circumstances of the case the Tribunal finds and holds that the application filed under section 2-A(2) of the I.D. Act is not maintainable as it is time barred. Hence, the application filed under section 2-A(2) of the Industrial Disputes Act is rejected and the case is dismissed.

8. Order is passed accordingly.

9. A copy of this order is sent to the appropriate government for notification as required under section 17 of the I.D. Act, 1947. File is consigned to record room.

Dictated &Corrected by me.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 23 जून, 2025

का.आ. 1134.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार

अध्यक्ष, उड़ीसा झींगा बीज उत्पादन आपूर्ति एवं अनुसंधान केंद्र (ओएसएसपीएआरसी) केरल के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री बी.एन. साहू, ओडिशा** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, भुवनेश्वर पंचाट **(संदर्भ संख्या 48/2016)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल - 42025-07-2025-149- आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 23rd June, 2025

S.O. 1134.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 48/2016**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The President, Orissa Shrimp Seed Production Supply & Research Centre (OSSPARC), Kerala** and **Sri B.N. Sahu, Odisha** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42025-07-2025-149-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour Court,

Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 48/2016

Filed under section 2(A)(2) of the Industrial Disputes Act.

Date of Passing Order – 25th February, 2025

Between :-

Sri B.N. Sahu,

S/o. Late Purushottam Sahu,

New Kamalapur, P.O. Golabandha,

Dist. Ganjam, Odisha.

… Applicant-Workman.

(And)

The President, Orissa Shrimp Seed Production

Supply & Research Centre (OSSPARC) MPEDA House,

Panampilly Avenue, Kochi – 682 036, Kerala.

… Management-Opp. Party.

Appearances:

Mr. Amar Shoo, Advocate.… For the 1st Party-Management.

Mr. Kailah Chandra Mishra… For the Applicant-Workman.

ORDER

This order is being passed on an application of applicant-workman filed under section 2-A(2) of the Industrial Disputes Act (herein-after referred as an Act).

2. The case of the applicant-workman as per his statement of claim is as follows:-

That he was working under the 1st Party-Management since 31.03.1988 and he was illegally relieved from service on 31.03.2009 by the 1st Party-Management, whereas he had been assured by the 1st Party-Management for disbursement of his arrear dues as well as his rehabilitation. The 1st Party-Management has formulated Service Rules and as per the said rule on successful completion of probation on first appointment every employee shall be confirmed. As per the rules formulated by the Management the date of retirement from service was 60 years and there was no such provision for voluntary retirement scheme, but calling the workman by the Management to submit option for VR Scheme was unconstitutional. Though, he did not opt for VR Scheme floated by the Management he was forced to sign the format for VR Scheme and he was assured for rehabilitation for his livelihood. Since, the action of the Management was neither legal nor justified the 2nd party-workman raised a dispute before the R.L.C.(C) Bhubaneswar on dated 28.11.2013 and when the matter was not resolved he had filed this application under section 2-A(2) of the Act with a prayer to pass an order of his reinstatement of his service with full back wages.

3. The case of the 1st Party-Management as per its written statement is as follows:-

That the present proceeding filed by the applicant under section 2-A(2) of the I.D. Act is not maintainable in the eye of law as the same is grossly barred by limitation. The applicant workman has voluntarily opted for Special VR Scheme floated by the Management and the workman has received all the benefits under Special V.R. scheme. After that the applicant-workman in an afterthought and with ill intention had raised industrial dispute under section 2A(2) of the I.D. Act which is grossly barred by limitation. The applicant workman has voluntarily taken retirement on 31.03.2009 from his service by way of opting special V.R. Scheme floated by the Management and also received all the benefits accrued to him, so the allegation of illegal removal from service on 31.03.2009 by the Management is false, frivolous and baseless. In the Industrial Disputes (Amendment) Act, 2010 Section 2(A)(2) & (3) are inserted for the benefits of the workman to raise his dispute with the management connected with or arising out of discharge, dismissal, retrenchment or termination, directly before Labour Court or Tribunal within a specific period of three years of such alleged dispute, but the applicant has filed his application much after three years.

A prayer has been made to reject the application of the applicant-workman on the ground of limitation.

4. After going through the pleadings of both the parties it is quite apparent that the 2nd party-workman/applicant has filed this application under section 2-A(2) of the I.D. Act on 28.06.2016 whereas it is the claim of the applicant that he was relieved from service on 31.03.2009.

5. At this stage the Tribunal thinks it proper to discuss here the provisions of the Section – 2(A)(3) of the I.D. Act:-

Section 2-A(3) of the Act specifically provides that the application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment, or otherwise termination of service as specified in sub-section(1).

6. In the instant case the applicant-workman has raised the dispute under section 2-A(2) of the Act after expiry of more than seven years of his alleged termination/retrenchment, so the petition filed by the applicant is not within the prescribed period provided under the provisions of the I.D. Act.

7. After considering all the facts and circumstances of the case the Tribunal finds and holds that the application filed under section 2-A(2) of the I.D. Act is not maintainable as it is time barred. Hence, the application filed under section 2-A(2) of the Industrial Disputes Act is rejected and the case is dismissed.

8. Order is passed accordingly.

9. A copy of this order is sent to the appropriate government for notification as required under section 17 of the I.D. Act, 1947. File is consigned to record room.

Dictated &Corrected by me.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 23 जून, 2025

का.आ. 1135.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **उप-मंडल अभियंता (भवन), हैदराबाद; प्रधान महाप्रबंधक, भारत संचार निगम लिमिटेड, हैदराबाद; मेसर्स कविता**

एंटरप्राइजेज, **हैदराबाद** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्रीमती जी. जयश्री**, **सिकंदराबाद** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय- हैदराबाद पंचाट(संदर्भ संख्या 21/2012) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल -42025/07/2025/150-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 23rd June, 2025

S.O. 1135.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. ID. No. 21/2012) of the **Central Government Industrial Tribunal cum Labour Court– Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Sub-Divisional Engineer (Bldgs), Hyderabad; The Principal General Manager, Bharat Sanchar Nigam Limited, Hyderabad; M/s. Kavitha Enterprises, Hyderabad** and **Smt. G. Jayasree, Secunderabad, Worker,** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42025/07/2025/150-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri Irfan Qamar**

Presiding Officer

Dated the 12th day of June, 2025

INDUSTRIAL DISPUTE L.C.No.21/2012

Between:

Smt. G. Jayasree,
W/o G. Jai Seetharam,
H.No.13-3-536,
Ashoknagar, Parsigutta,
Secunderabad. .....Petitioner

AND

1. The Sub-Divisional Engineer(Bldgs.),
   I floor, Telephone Bhavan, BSNL,
   Saifabad, Hyderabad – 500 004.
2. The Principal General Manager,
   Bharat Sanchar Nigam Limited,
   Adarsh Nagar, Hyderabad.
3. M/s. Kavitha Enterprises,
   Rep. by Mrs. Ch. Kavitha, Flat No.26,
   Raghavendra colony,
   Opp. Shanthi Nikethan Residential School,
   Nr. Hayathnagar Bus Depot, Hyderabad -501505. ….Respondents

Appearances:

For the Petitioner : M/s. A. Sanjeeva Narayan & B. Braham, Advocates

For the Respondent: Sri R.S. Murthy, Advocate

AWARD

Smt. G. Jayasree, who worked as Labourer (who will be referred to as the workman) has filed this petition under Sec. 2A(2) of the Industrial Disputes Act, 1947 against the Respondents Bharat Sanchar Nigam Limited, seeking for declaring the proceeding dated 1.5.2011 issued by Respondent as illegal, arbitrary and to set aside the same consequently directing the Respondents to reinstate the Petitioner into service duly granting all the consequential benefits such as continuity of service, back wages and all other attendant benefits etc., and such other reliefs as this court may deems fit.

2. **The averments made in the petition in brief are as follows**:

The Petitioner submits that since the date of her joining in the Respondent office in October, 2003, she has been 'maintaining good record of service till she was terminated from services by the Respondents on 30.4.2011. It is submitted that she has raised the dispute against her removal from services and also for the non-payment of wages from 1.5.2011 onwards. The Asst. Labour Commissioner(c)-II has convened for joint talks comprising the Respondents, contractor and the Petitioner between the period June, 2011 and July, 2012. The response of the contractor and the Res. No.l was very Luke-worm, they remained absent without mentioning the reasons and if they attended, they did not evince any interest to settle the dispute seriously. It is submitted that the salary was paid @ Rs l000/- for the period October, 2003 to December, 2005, Rs.1400/- from 1.1.2006 to 31.12.2007, Rs.2,000/- from 1.1.2008 to 31.12.2009 and Rs.3,000/- per month from 1.1.2010 to till the date of removing from the services as on 30.4.2011 during the period of services and the work allotted was of a regular and perennial nature and the Petitioner used to do the job for the entire day along with other regular and confirmed staff members. The agreement entered between the contractor and the Respondents envisages that 'cleaning of toilet floor, ceramic tile side walls, flush outs, urinals, wash basins, toilets twice a day during office hours and as when necessary. The services were required on all 365 days without any break' confirms the nature of the job is of permanent nature and not for any temporary basis. It is further submitted that in the joint meeting held between the Res.No.l and the Petitioner before the ALC (C), Hyderabad on 18.4.2012, on behalf of Res.No.l expressed that they will ask the contractor to employ the from 1.5.2012 when the work man asked for the back wages, the Respondent No. 1 stated that they would revert back. But in the final meeting held on 28.7.2012 none represented from Respondent's side when the ALC(C) after taking into the account the attitude of the management and after the views of both the sides were noted in the joint meetings held, despite best efforts of the ALC (c) to settle the dispute, he has given the failure report Thus the ID case could not be settled amicably and ended into a failure. It is submitted that she was paid under-wages from October, 2003 to 30.4.2011 and as per the Minimum Wages Act, an amount of Rs.3,81,800/- is due to the workman. The details are enclosed in a separate sheet to the effect and she may be considered for employment into the Respondents establishment with back wages due for the period she has been un-authorizedly removed from the employment without giving any reasons on 1.5.2011. Therefore, prayed to set aside the termination order dated 1.5. 2011.

3. **The Respondents filed counter denying the averments made in the petition, with the averments in brief which runs as follows**:

It is submitted that the answering Respondents No. 1 and 2 are in no way concerned with the engagement of the Petitioner by the Respondent No. 3 and the provisions of ID Act have no application with respect to contract employment. In this connection it is to submit that there is no employer and employee relationship between the Petitioner and the answering Respondents. The application as such is misconceived, baseless and incorrect and be dismissed against the answering Respondents. It is submitted that due to shortage of sanctioned strength of Group- D staff it has become necessary to entrust the sweeping work on contract basis and accordingly a contract was finalized with Respondent No. 3 for the period from 5.5.2011 to 4.5.2012 and was not renewed thereafter. It is submitted that the engagement of the Petitioner by Respondent No.3 and the disengagement thereof is not within the knowledge of the answering Respondents and as such the claim for reinstatement from 1.5.2011 is misconceived against the answering Respondents. It is submitted that the answering Respondents have no record of payments by Respondent No. 3 to the Petitioner and the same was never made in the presence of the answering Respondents thereby leaving no scope to adduce evidence with respect to continuous engagement for the period of 240 days during the calendar year from 1.4.2010 to 30.4.2011 for the purpose of Sec. 25 (f) of LD.Act as indicated above with regard to the Petitioner. It is submitted that the claim for reinstatement against the answering the Respondents is misconceived, baseless and incorrect and petition be dismissed with costs. Therefore, prayed to dismiss the claim.

4. Registered post notice was sent to the Respondent No.3 at the address described in the petition by the Petitioner but the same was returned with the endorsement that "addressee has left." The Petitioner did not take steps to get served notice at the current and correct address of the Respondent No.3. Therefore, for the non-prosecution of taking steps the Petitioner's petition against Respondent No.3 stands dismissed.

5. **On the basis of rival pleadings of both parties following issues emerge for determination:-**

I. Whether the termination order of the Petitioner Smt. G. Jayasree is illegal, arbitrary and violative of principles of natural justice?

II. To what relief if any, the Petitioner is entitled for?

Findings:-

6. **Issue No.I**:- In support of her claim as made in the petition Petitioner has filed the chief statement affidavit of witness WW1. This witness has testified that the Petitioner had worked as a labourer under a contractor at Respondent No.1 office from October, 2003 and had worked for 7 years and 7 months but her services were terminated with effect from 1.5.2011 without giving any notice and without giving any reasons to this effect. Further, the witness states that she has worked for 240 days in a calendar year and should be absorbed as a permanent worker in the Respondent office. In support of the oral testimony the Petitioner has not filed any document in evidence to prove her claim that she was employee of Respondent No. 1 and 2 for the said period and no document has been filed by the Petitioner as a proof of receipt of salary or wages for 240 days or order regarding appointment or engagement for the said period. It is a settled law that mere filing of affidavit is only the Petitioner's own statement in his favour and that cannot be regarded as sufficient evidence and for any court or Tribunal to come to the conclusion that a Workman had in fact worked for a 240 days in a year. Thus, for the want of document regarding proof of salary or wages or appointment or engagement order, the court cannot arrive at a conclusion that the Petitioner had in fact worked for 240 days in a year in the Respondent employment. Whatever documents has been filed by the Petitioner along with the claim statement are pertaining to the correspondence by the Petitioner to the Zonal Labour Commissioner and also the notices sent to the parties during the conciliation proceedings which could not be settled amicably and ended in failure. Thus, the photocopies of the documents filed by the Petitioner are not relevant as a proof of claim of the Petitioner that she had worked for 240 days in a year in the Respondent management. As regards the principle of burden of proof to prove the factum that she was engaged by the Respondent for doing the work and worked for 240 days in a year just preceding from the date of termination lies upon the Petitioner.

In this context, the reference of decision of Hon'ble Supreme Court in the case of **M/s. Essen Deinki Vs. Rajiv Kumar, AIR 2003 Supreme Court 38, 2002** therein Supreme Court to have held:-

"*The proof of working for 240 days is stated to be on the employee in the event of any denial of such a factum and it is on this score that this Court in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25) was pleased to state as below :*

" In our opinion the Tribunal was not right in placing the onus on the management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside."

Further, in the case of **Manager, RBI, Bangalore vs. S. Mani & Ors. AIR 2005 Supreme Court 2179** have held:-

BURDEN OF PROOF:

The initial burden of proof was on the workmen to show that they had completed 240 days of service. The Tribunal did not consider the question from that angle. It held that the burden of proof was upon the Appellant on the premise that they have failed to prove their plea of abandonment of service stating:

"It is admitted case of the parties that all the 1st parties under the references CR No. 1/92 to 11/92 have been appointed by the 2nd party as ticca mazdoors. As per the 1st parties, they had worked continuously from April, 1980 to December, 1982. But the 2nd party had denied the above said claim of continuous service of the 1st parties on the ground that the 1st parties has not been appointed as regular workmen but they were working only as temporary part time workers as ticca mazdoor and their services were required whenever necessary arose that too on the leave vacancies of regular employees. But as strongly contended by the counsel for the 1st party, since the 2nd party had denied the above said claim of continuous period of service, it is for the 2nd party to prove through the records available with them as the relevant records could be available only with the 2nd party."

The Tribunal, therefore, accepted that the Appellant had denied the Respondents' claim as regard their continuous service.

In Range Forest Officer Vs. S.T. Hadimani [(2002) 3 SCC 25], it was stated:

"3 In our opinion the Tribunal was not right in placing the onus on the management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient

evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside.

[See also Essen Deinki Vs. Rajiv Kumar, (2002) 8 SCC 400] In Siri Niwas (supra), this Court held:

"The provisions of the Indian Evidence Act per se are not applicable in an industrial adjudication. The general principles of it are, however applicable. It is also imperative for the Industrial Tribunal to see that the principles of natural justice are complied with. The burden of proof was on the respondent herein to show that he had worked for 240 days in preceding twelve months prior to his alleged retrenchment. In terms of Section 25-F of the Industrial Disputes Act, 1947, an order retrenching a workman would not be effective unless the conditions precedent therefor are satisfied. Section 25-F postulates the following conditions to be fulfilled by employer for effecting a valid retrenchment :

(i) one month's notice in writing indicating the reasons for retrenchment or wages in lieu thereof;

(ii) payment of compensation equivalent to fifteen days, average pay for every completed year of continuous service or any part thereof in excess of six months."

Thus, in view of the settled law laid down by the Hon'ble Apex Court as discussed above the Petitioner has utterly failed to produce any documentary evidence in support of her claim that she was engaged by Respondent and has been terminated illegally by the Respondent in violation of the principles of natural justice. Therefore, in view of the fore gone discussion, as the Petitioner failed to prove her appointment or engagement by the Respondent No.1 and 2 in their employment, hence, question of illegal termination of the Petitioner by the Respondent does not arise. There is no iota of evidence on record adduced by the Petitioner to prove the fact of Employer-Employee relationship. Therefore, claim of the Petitioner of her illegal termination is not maintainable in the eye of law. Further, the Petitioner has admitted that she was engaged in the Respondent office as a contract labour of Respondent No.3 but she has not taken any steps to summon Respondent No.3 in the dispute. Therefore, the claim of the Petitioner utterly failed on this ground also.

This Issue is answered against the Workman and in favour of the Respondents.

7. Issue No.II:- In view of the finding arrived at Issue No.I, the Petitioner failed to prove her claim as per averment made in the petition, therefore, she is not entitled for any relief and her claim petition is liable to be dismissed.

Thus, Issue No.II is answered accordingly.

AWARD

In view of the fore gone discussion and finding arrived at Issues No. I & II, I am of the considered view that the Petitioner's claim petition for reinstatment in the employment of Respondent is devoid of merit as she failed to prove employer-employee relationship. Hence, the Petitioner Smt. G. Jayasree is not entitled to any relief as prayed for. As such, the petition filed by the Petitioner deserves to be dismissed as devoid of merit. Therefore, the petition is dismissed.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 12th day of June, 2025.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 23 जून, 2025

का.आ. 1136.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मुख्य महाप्रबंधक**, **भारत संचार निगम लिमिटेड**, **हैदराबाद** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री पी. अंजैया**, **पूर्व सर्किल सचिव**, **राष्ट्रीय दूरसंचार कर्मचारी संघ (ग्रुप सी)**, **हैदराबाद** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय- हैदराबाद पंचाट(संदर्भ संख्या 6/2017) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल -42025/07/2025/152-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 23rd June, 2025

S.O. 1136.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. ID. No. 6/2017) of the **Central Government Industrial Tribunal cum Labour Court– Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Chief General Manager, Bharat Sanchar Nigam Limited, Hyderabad** and **Sri P. Anjaiah, Ex-Circle Secretary, National Telecom Staff Union (Group C), Hyderabad, Worker,** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42025/07/2025/152-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 28th day of May, 2025

INDUSTRIAL DISPUTE No. 6/2017

Between:

Sri P. Anjaiah,

Ex-Circle Secretary,

National Telecom Staff Union (Group C)

Andhra Pradesh Branch, H.No.4-9-651/1,

Plot No.37, Rd. No.7, VNC No.160, Vinayak

Nagar Colony, Hayathnagar, Hyderabad -501 505. ….. Petitioner Union

AND

The Chief General Manager,

Bharat Sanchar Nigam Limited,

Telecom, AP Circle, Doorsanchar Bhavan,

Nampally Station Road,

Hyderabad-500 001. …. Respondent

Appearances:

For the Petitioner : M/s. P. Venkateswara Rao, Advocates

For the Respondent : Sri S. Prabhakar Reddy, Advocate

A W A R D

The Government of India, Ministry of Labour by its order No. L- 40012/35/2015-IR(DU) dated 15.2.2017 / 20.2.2017 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of BSNL, AP Circle, Hyderabad and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of BSNL, Hyderabad in terminating the services of Sri Kancharla Narasimha Murthy and 59 others (as per list enclosed) and not granting them 'temporary status mazdoor' is legal and justified? What relief the workmen are entitled to?"

The reference is numbered in this Tribunal as I.D. No. 6/2017 and notices were issued to the parties concerned.

2. **The averments made is the claim statement are as follows**:

The Petitioner Workmen submit that they were engaged as Casual Mazdoors from 1-1-1994 to 30-9-1996 in the erstwhile Department of Telecommunication of the Central Government. Subsequently, the Divisional Engineer, Department of Telecom, Secunderabad issued orders by letter No.C.Mazdoor/DOT/1993-1994/9 dt.15-3-1994 to engage 500 manpower including the Petitioner s Workmen as Casual Mazdoors as a special case to work in R.E. Project between Vijayawada to Nagpur, but the neighbouring SSAs have not been deputed to the said project due to non-availability of manpower. In this list, the Petitioner Workmen casual labourers who were working in different SSAs i.e. Krishna, Khammam and Warangal, etc. were sent to work in the said Project. It is also stated in the said letter that the ban orders on engagement of casual mazdoors is not applicable to the project works as per the DOT letter dt.22.6.1988 and the S.I. working under their control were directed to engaged them without fail. Thereafter, the Petitioner workmen continued on Voucher payment basis. The relevant payment vouchers are filed herein with for considerations. Further, it is submitted that by proceedings dt.21-11-2000, the Management has regularized the similarly situated persons, who are juniors to the workmen, by giving them temporary status, ignoring them without any rhyme or reason. They were disengaged by the Respondent Management, though there was work, for the reasons best known to them. The Petitioner Workmen have been pursuing the dispute with the Respondent /Management since 30-9-1996. The Petitioner Workmen have already worked more than for a period of 240 days in a calendar year and thus entitled for temporary status. It is submitted that they have been requesting the Respondent s for regularization or to provide regular work still no action has been taken by the Management. They have also made representation through Member of Parliament by letter dt.30-8-2002, which was replied by the Director, BSNL, R.E.Project, Secunderabad saying that the REPC is not having recruitment powers of mazdoors. Another letter was also sent by Member of Parliament to the Hon'ble Minister for Telecommunication stating the above facts, to which it was replied by the Minister of State for Communications & IT, he is looking into the matter for grant of temporary status to casual mazdoors worked more than 240 days as on 1-8-1998 left out regularization of casual labour in RE Project, Secunderabad. In this case, since there were no sufficient casual mazdoors in the neighbouring SSAs, the Petitioner Workmen who were working in Krishna, Khammam, Warangal and Hyderabad were deputed to work in the R.E. Project. 79 mazdoors were regularized in the RE Projects among 79 regularised mazdoors 60 were juniors to the Petitioners. It is submitted that the Petitioner workmen had worked from 1.1.1994 to 31.9.1996 continuously, completed 240 days service, but orally terminated without following the provisions of the I.D. Act, 1947 which is arbitrary and illegal. Moreover, juniors to the Petitioners were regularized by the Management. Therefore, prayed to direct the Respondent Management to regularize the services of the Petitioner on par with their juniors etc..

3. Respondent filed counter denying the averments of the Petitioner workmen as under:-

It is submitted that the claimant union is not recognised by Respondent after formation of BSNL from 1.10.2000 as a Central Government company vide Department of Telecommunications notification dated 17.4.2001. Hence there is no scope for any adjudication under reference dated 20.2.2017. It is submitted that in the claim statement filed by the Petitioner workmen seeking re-engagement including grant of temporary status in BSNL on the assertion to the effect that they were engaged in the Railway Electrification Project of the Department of Telecommunications and discharged there from without indicating the date of engagement, place and date of discharge. The present dispute was referred without there being any details of the claimants in the said reference by the Government of India. In this connection it is submitted that in the schedule of reference, it has been referred about Sri Kancharla Narasimha Murthy and 59 others, without the names and details there of thereby leaving no scope to file a counter with reference to the claim statement filed in October 2017, therefore, the claim is as a whole misconceived, baseless and incorrect and deserves to be dismissed in limini.

4. **On the basis of rival contentions and pleadings of both the parties, following issues emerge for adjudication**:-

I Whether the action of management of CGM, BSNL, Hyderabad in terminating the services of S/Sri Kancharla Narasimha Murthy and 59 others is legal and justified?

II. Whether the workmen S/Sri Kancharla Narasimha Murthy and 59 others are entitled for temporary status mazdoor in the Respondent management?

III. To what relief the Petitioner workmen are entitled?

5. Petitioner workmen filed chief affidavit of evidence of witness but did not prove any documents in oral evidence. On behalf of the management witness MW1 has filed chief evidence affidavit.

Findings:-

6. **Issue No.I**:- This issue pertains to the question whether the action of the management of CGM, BSNL, Hyderabad in terminating the services of Sri Kancharla Narasimha Murthy and 59 other workmen is legal and justified. It is contended that the claimant union is not recognised by Respondent after formation of BSNL from 1.10. 2000 as a Central Government company vide Department of Telecommunications notification dated 17.4.2001. Hence there is no scope for any adjudication under reference dated 20.2.2017. Further, it is contended that in the claim statement filed by the Petitioner workmen seeking re-engagement including grant of temporary status in BSNL on the assertion to the effect that they were engaged in the Railway Electrification Project of the Department of Telecommunications and discharged there from without indicating the date of engagement, place and date of discharge. The present dispute was referred without there being any details of the claimants in the said reference by the Government of India. Therefore, the claim of Petitioners is liable to be dismissed. Respondent in support of the contention has examined witness MW1 who has reiterated the contention raised in the counter. Despite sufficient opportunity this witness was not cross examined on behalf of Petitioner workmen. Therefore, the testimony of the witness MW1 in chief remains uncontraverted.

7. On the other hand, Petitioner workmen submitted that they were engaged as casual mazdoor from 1.1.1994 in the erstwhile Department of Telecommunication of the Central Government. Subsequently the Divisional Engineer, Department of Telecom, Secunderabad issued orders to engage 500 manpower including the Petitioner workmen as casual mazdoors as a special case to work in RE project between Vijayawada to Nagpur and the relevant payment vouchers has been filed herewith for consideration. Further, it is contended that the Respondent has disengaged the Petitioner workmen without any order or proceeding whereas they have worked for more than 240 days in a calendar year and thus entitled for protection under section 25-F of the Industrial Disputes Act. Further, it is submitted that Respondent management failed to follow the mandatory requirement under the said provision and thereby Petitioner Workmen are entitled to the benefit and protection as envisaged under section 25 F of Industrial Disputes Act.

8. Before delving into the question of legality of the action of the Respondent management in terminating the workmen's service, it would be apposite to go through the relevant provision contained under ID Act:-

Section 25F provides:-

Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month' s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

Compensation to workmen in case of transfer of undertakings.

Section 25B defines the term continuous service

- For the purposes of this Chapter,--

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock- out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

9. Further, with regard to question of burden of proof to prove the mandatory condition precedent of 240 days of continuous service in a calendar year as envisaged u/s. 25-F of the I.D. Act, 1947 Hon'ble Supreme Court has laid down the principles in its decisions, which are discussed as hereunder:-

In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:

"It was the case of the Workman that he had worked for more than 240 days in the year concerned. This claim was denied by the appellant. It was for the claimant to lead evidence to show that he had worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that in fact the claimant had worked for 240 days in a year These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."

In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195), held "*the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment." In M.P. Electricity Board v. Hariram (2004 (8) SCC 246) the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously ..*"

In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held that "*the initial burden of proof was on the Workman to show that he had completed 240 days of service."*

Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the principle that how to count 240 days of service within one year it is held:

Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act. he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."

"Clause (2)(a) provides for a fiction to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained. move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

In the case of **GM., BSNL and others V. Mahesh Chand AIR 2008 SC (Supp) 1328,** wherein the Hon'ble Apex Court have held,

"It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside."

Hon'ble Supreme Court in the case of **M/s. Essen Deinki vs. Rajiv Kumar AIR 2003 Supreme Court 38 have held:-**

"*The proof of working for 240 days is stated to be on the employee in the event of any denial of such a factum and it is on this score that this Court in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25) was pleased to state as below :*

" In our opinion the Tribunal was not right in placing the onus on the management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a

year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside. ."

10. Now, in view of the law laid down by the Hon'ble Apex Court as discussed above, now, we proceed to examine claim of the Petitioners in the light of the evidence of the Petitioner in support of their assertion made in the claim statement. The record divulge that despite sufficient number of opportunities accorded, Petitioner failed to produce any documentary evidence in support of their claim. Whereas in oral evidence, chief affidavit of WW1 has been filed who has merely reiterated the assertion made in the claim statement. No documents in evidence in support of claim has been filed by the Petitioners.

11. Therefore, for the want of documentary evidence the claim of the Petitioners as asserted in the claim statement is not acceptable. In **M/s. Essen Deinki vs. Rajiv Kumar AIR 2003 Supreme Court 38** have held that:-

The burden of proof lies upon the Petitioner workmen to lead the evidence to show that they have in fact worked for 240 days in the year preceding their termination. But the present case, Petitioners despite sufficient opportunity, failed to produce any document i.e., proof of record of salary, wages, order or record of appointment or engagement for said period, in support of the averments made in the claim statement. Thus, for the want of documentary evidence, the claim of Petitioners as asserted in the claim statement is not acceptable. Merely filing of affidavit is only his own statement in his favour and that can not be regarded as sufficient evidence for the Tribunal to come to the conclusion that the workmen in fact had worked for 240 days in a year.

12. Although he has filed chief affidavit of the witness but this witness has not exhibited any document in support of the claim. There is no proof of receipt of salary or wages for 240 days work or order so on record regarding payment or engagement for this period, has been produced by the Petitioner workmen. Therefore, for the want of any documentary evidence, the plea of the Petitioner workmen that they had worked for 240 days continuously in a calendar year in the Respondent management is not found proved and established. On the other hand, the testimony of MW1 for the want of cross examination remain uncontroverted. Thus, claim of the Petitioner Workmen that the action of the management of BSNL, Hyderabad in terminating the services of Sri Kancharla Narasimha Murthy and 59 others and not granting them temporary status mazdoor is in violation of the section 25 F of the I.D. Act, 1947, is not acceptable and tenable. In view of fore gone discussion the Petitioner failed to prove the condition precedent for application of the provision contained under section 25-F of the Industrial Disputes Act. Therefore, the averment of the Petitioner workmen that the action of the management in terminating their services is in contravention of the provision of section 25 F of the Act is not tenable.

Issue is decided against the workmen.

13. **Issue No.II**:- This issue pertains to the question whether the Petitioner Workmen are entitled for temporary status mazdoor in the Respondent management. Petitioner Workmen have averred that they were engaged as casual mazdoor from 1.1.1994 and they have already worked for more than a period of 240 days in a calendar year and thus entitled for temporary status. Further, it is argued that they have been requesting the Respondent for regularization still no action has been taken by the management. They have also made a representation through various authorities to the Respondent but Respondent did not consider their claim/request. Further, it is submitted that in view of the order of Hon'ble Central Administrative Tribunal, the Petitioner gave representation to the management along with the order of the Tribunal but management instead of appreciating the circumstances and without proper verification of records and without providing opportunity of being heard has rejected the representation in a mechanical way in cyclostyle order. Further, it is contended that the impugned proceeding of the Respondent is ex-facie, illegal, arbitrary, discriminatory, and violative of principles of natural justice. Further, it is submitted that when juniors and similarly situated persons were regularised the Respondent management ought to have extended the same benefit to the Petitioner workmen also.

14. Per contra, in support of the contention the Respondent has filed chief statement of affidavit of witness MW1 who has reiterated the contentions raised in the counter and the testimony of MW1 remained uncontraverted as the witness WW1 admitted in his cross examination that the Government of India has not sent the list of 60 employees along with the reference dated 20.2.2017, as such it is not possible to depose, hence, the reference itself is not maintainable.

15. The perusal of the record goes to show that in support of their claim for temporary status Petitioner workmen has not produced any oral or documentary evidence to prove the fact that they had worked for 240 days in a calendar year and on that basis they are entitled for temporary status. Further, Petitioners failed to produce any evidence on record to the effect that the junior workmen has been grant of temporary status in preference of seniority of Petitioner. There is no iota of evidence on record in support of claim of Petitioner for temporary status. Mere filing claim statement cannot is not sufficient. Per contra, Respondent management has denied the fact that temporary status has been granted to junior workmen.

16. Hon'ble Supreme Court in the case of **Manager, RBI, Bangalore vs. S. Mani & Ors., on 14.3.2005 AIR 2005 Supreme Court 2179** have held that, merely the completion of 240 days of continuous service by the workmen by itself does not give rise to claim of permanence in the employment. Hon'ble Supreme Court have held that:-

"It may not be out of place to mention that completion of 240 days of continuous service in a year may not by itself be a ground for directing an order of regularization. It is also not the case of the Respondents that they were appointed in accordance with the extant rules. No direction for regularization of their services was, therefore, could be issued."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the Petitioner Workmen failed to prove the fact by any evidence that they were appointed in accordance with the extant rules and had worked for 240 days of continuous service in the Respondent management preceding their termination. Thus, they failed to prove the claim by any oral and documentary evidence. Therefore, for the want of evidence the claim of Petitioner for temporary status is not tenable and liable to be dismissed.

This issue is decided against the Petitioner workmen and in favour of the Respondent.

17. **Issue No.III:-** In view of the finding given at Issue Nos. I & II, the Petitioner workmen are not entitled for any relief as prayed for and thus, claim petition is devoid of merit and liable to be dismissed.

This issue is decided against the Petitioners and in favour of the Respondent.

AWARD

In view of the finding given at Issue Nos. I,II & III, the action of the Management of CGM, BSNL, Hyderabad in terminating the services of Sri Kancharla Narasimha Murthy and 59 Petitioners and not granting them 'temporary status mazdoor' is held legal and justified. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 28th day of May, 2025.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri P. Anjaiah	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 23 जून, 2025

का.आ. 1137.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मुख्य महाप्रबंधक, भारत संचार निगम लिमिटेड, हैदराबाद** के प्रबंधतंत्र के संबद्ध नियोजकों और **एम. कुमारस्वामी, कैजुअल मजदूर और 37 अन्य** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-हैदराबाद पंचाट(संदर्भ संख्या 3/2012) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल -42025/07/2025/153-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 23rd June, 2025

S.O. 1137.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. ID. No. 3/2012) of the **Central Government Industrial Tribunal cum Labour Court– Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in

relation to **The Chief General Manager, Bharat Sanchar Nigam Limited, Hyderabad** and **Sri M. Kumaraswamy, Casual mazdoor & 37 others, Worker,** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42025/07/2025/153-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 28th day of May, 2025

INDUSTRIAL DISPUTE No. 3/2012

Between:

Sri M. Kumaraswamy,

Casual mazdoor & 37 others,

Rep. by Sri P. Anjaiah,

Ex-All India General Secretary for

NUTEE(Gr.D) D.No.4-7-266,

Padmavathi colony,

Hayathnagar, R.R.District-501 505. ….. Petitioner

AND

The Chief General Manager,

BSNL AP Circle,

Hyderabad. …. Respondent

Appearances:

For the Petitioner : M/s. P. Venkateswara Rao, Advocate

For the Respondent : Sri S. Prabhakar Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L- 40012/14/2011-IR(DU) dated 9.1.2012 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of BSNL, AP Circle, Hyderabad and their workmen. The reference is,

SCHEDULE

"Whether the action of the management of CGM, BSNL, Hyderabad in terminating the services of Sri M. Kumaraswamy and 37 others (List enclosed) and not granting them 'temporary status mazdoor' is legal and justified? What relief the workmen are entitled to?"

The reference is numbered in this Tribunal as I.D. No. 3/2012 and notices were issued to the parties concerned.

2. **The averments made is the claim statement are as follows**:

The Petitioner Workmen submit that they were engaged as Casual Mazdoors from 1-1-1994 to 30-9-1996 in the erstwhile Department of Telecommunication of the Central Government. Subsequently, the Divisional Engineer, Department of Telecom, Secunderabad issued orders by letter No.C.Mazdoor/DOT/1993-1994/9 dt.15-3-1994 to engage 500 manpower including the Petitioner Workmen as Casual Mazdoors as a special case to work in R.E. Project between Vijayawada to Nagpur, but the neighbouring SSAs have not been deputed to the said project due to non-availability of manpower. In this list, the Petitioner Workmen casual labourers who were working in different SSAs i.e. Krishna, Khammam and Warangal, etc. were sent to work in the said Project. It is also stated in the said letter that the ban orders on engagement of casual mazdoors is not applicable to the project works as per the DOT

letter dt.22.6.1988 and the S.I. working under their control were directed to engaged them without fail. Thereafter, the Petitioner workmen continued on Voucher payment basis. The relevant payment vouchers are filed herein with for considerations. Further, it is submitted that by proceedings dt.21-11-2000, the Management has regularized the similarly situated persons, who are juniors to the workmen, by giving them temporary status, ignoring them without any rhyme or reason. They were disengaged by the Respondent Management, though there was work, for the reasons best known to them. The Petitioner Workmen have been pursuing the dispute with the Respondent /Management since 30-9-1996. The Petitioner Workmen have already worked more than for a period of 240 days in a calendar year and thus entitled for temporary status. It is submitted that they have been requesting the Respondent for regularization or to provide regular work still no action has been taken by the Management. They have also made representation through Member of Parliament by letter dt.30-8-2002, which was replied by the Director, BSNL, R.E.Project, Secunderabad saying that the REPC is not having recruitment powers of mazdoors. Another letter dt.20-11-2002 was also sent by Member of Parliament to the Hon'ble Minister for Telecommunication stating the above facts, to which it was replied by the Minister of State for Communications & IT dt.28-11-2002 and 13-12-2002 he is looking into the matter for grant of temporary status to casual mazdoors worked more than 240 days as on 1-8-1998 left out regularization of casual labour in RE Project, Secunderabad. There the matter kept pending for passing orders. The Petitioner Workmen submit that, subsequently, they filed Writ Petition No.757 of 2009 on the file of the Hon'ble High Court of A.P., Hyderabad to consider their claim for grant of temporary status and regularization on par with their juniors as stated above. The said Writ Petition was disposed of by an order dt. 16-9-2009 granting leave and liberty to approach the appropriate forum and thereafter they filed the O.A.No.101 of 2010 on the file of the Hon'ble Central Administrative Tribunal, Hyderabad. The Petitioner Workmen submit that the said O.A. was disposed of by an order dt.10-2-2010. It is submitted that the as per the directions of the Hon'ble Central Administrative Tribunal, Hyderabad, they filed their elaborate representations to the Management along with orders of the Hon'ble Tribunal and also attendance book, etc., on 3-3-2010, the Management instead of appreciating the circumstances and without proper verification of records and without providing opportunity of being heard, has issued the impugned proceedings dt.8-6-2010 on a mechanical way in cyclostyle order. The Petitioner Workmen submit that the impugned proceedings dt.8-6-2010 are ex-facie illegal, arbitrary, discriminatory and contrary to record and violative of principles of natural justice and violative of Art.14, 16 and 21 of the Constitution of India, besides violative of provisions of Industrial Disputes Act. it is submitted that when juniors and similarly situated persons were regularized, the Respondent /Management ought to have extended the same benefit to the Petitioner Workmen also. Further the reasoning recorded by the Respondent /Management as mentioned in the clause-(i) of the impugned order stating that the benefit extension of temporary status under scheme dt.7-11-1989 only for casual labours who have engaged prior to 31-10-1985 after 26-8-1988 is not tenable and when the Respondent /Management had extended similar benefit to similarly situated persons having extracted work from the Petitioner Workmen during subsequent period denial of said benefit amounts to clear act of discrimination and victimization. The Petitioner Workmen submit that the contention of the Respondent /Management as mentioned in Clause-(i) that records pertaining to Railway Electrification Project are not available is not tenable on the ground that they have weeded out as per the retention schedule. It is submitted that non availability of the records in the department cannot be attributed to the Petitioner Workmen and the Respondent /Management ought to have accepted the records produced by the Petitioner Workmen or ought to have called for further information from the Petitioner Workmen as such on the ground of records are not available denying their right is not tenable, as such second reasoning is not sustainable likewise. The other objection No.(ii) is also not tenable and it is vague and without any particulars. Apart from that, the Petitioner Workmen submit as per Appendix 5 to P&T Financial Hand Book. Vol.Il(Part I) lays down the period of preservation of accounts records of a Divisional Office, a Telecom District Office, etc., as indicated below:-

	Classes of records	Period of preservation
1	Cash Book	To be retained for 10 years
2	Register of Works	To be retained for 20 years
3	Labour payments	To be retained for 10 years

In view of the above the Respondent /Management has to retain the above records and they have to produce the above records in order to show that they were in employment for the periods they were shown to be in employment. Otherwise, adverse inference has to be drawn against the Respondent. The Petitioner Workmen submit that regarding para (iv) of the impugned order when similarly situated persons were engaged and records shows the services rendered by the Petitioner Workmen, the contention that there is no relationship as employer and employee is also not tenable. It is submitted that only the Petitioner Workmen and similarly situated persons will ask for temporary status or re-engagement. It is submitted, clause (v) of the order is not maintainable in respect of the claims of the Petitioner workmen as they have been pursuing with Respondent /Management to re-engage them in the Department in view of their past experience. The Petitioner Workmen submit that the recruitment unit of the territorial circles is the Telecom District concerned in so far as Casual Mazdoors and other regular Divisional cadres are concerned. The non-recruitment units have to obtain their requirement of casual mazdoors from the Telecom District concerned. In this case, since there were no sufficient casual mazdoors in the neighbouring SSAs, the Petitioner Workmen who were working in Krishna and Khammam were deputed to work in the R.E. Project. Therefore, the Petitioner Workmen submit that at least a week before their retrenchment counting backwards from date of retrenchment. Such a step was

not taken by the Respondent /Management. The Railway Electrification Projects have recommended the name of 58 casual mazdoors for consideration of temporary status and they are all juniors to the Petitioner Workmen. This was brought to the notice all the higher authorities and requested to verify the genuineness and to do justice, the Petitioner Workmen have also participated strike held in front of the Office of Divisional Engineer, Railway Electrification Project, Padmarao Nagar, Secunderabad after issue of temporary status to the 79 mazdoors by the Respondent / Management at Nagpur in which the following mazdoors are juniors to the Petitioner workmen. The Respondent /Management is avoiding to give proper reply in this regard. The photostat copies of working days of the Petitioner workmen were submitted to the Respondent /Management along with the certificate issued by the then Divisional Engineer. The Petitioner Workmen submit that many of them have been interviewed and selected to work in R.E.Project under the control of Sri K.Sambi Reddy, S.I.P., Sri P.Chandraiah, S.L.P., and Sri Jagannadha Rao, A.E., R.E.Project, Sri Laxmaiah and Sri D.Vithal Rao, the then Divisional Engineer, R.E.Project, Secunderabad. It is submitted that the R.E.Project carry out the project work from Secunderabad to Nagpur during the above period. The said work was under progress between Balarsha and Nagpur, the DOT authorities terminated the Petitioner Workmen orally without issue of notice under Section 25-F, G and H of Industrial Disputes Act, 1947 w.e.f. 1-10-1996 leaving the juniors in the department. Whereas, the Petitioner Workmen have joined in the R.E.Project from 1-1-1994 onwards. This is clear discrimination on the part of the Respondent /Management to terminate orally the services of the Petitioner Workmen. No service compensation has been paid to the Petitioner workmen under the I.D.Act, 1947. The Petitioner Workmen has also worked at Razora Cable Work at Rajora, Balarsha during the period from 1 1-1994 to 31-12-1994, which is 20 KMs away from Balarasha; from Gudur to Korivi MRPTS i.e. Warangal District for erecting antenna during the period from 1-1-1995 to 31-3-1995; worked at Bheemadole to lay down the cable work during the period from 1-4-1995 to 31-12-1995, which is near Eluru, West Godavari District; worked in Stores, cable work in Eluru Town during the period from 1-1 1996 to 30-9-1996 under the supervision of K.Sambi Reddy, P.Chandraiah and Mr.Vittal Rao, the then D.E. has paid their wages. All these records are available with the Divisional Engineer, Railway Electrification Project, Raichur and the said records were made over to the Chief General Manager Office, Hyderabad while shifting office from Secunderabad to Nagpur. To avoid grant of temporary status to the Petitioner Workmen, the Respondent /Management is not willing to verify the records at this juncture, since, if noticed, the mistake committed by the then officials of the Respondent /Management would be revealed. The persons who worked in the Project along with the Petitioner Workmen at Nagpur were regularized and they were repatriated to the A.P.Circle in normal circumstances, this extreme step would not have been taken. Since the competent authority to regularize the juniors who worked at the Project along with the Workmen is the CGM AP Circle, Hyderabad and not the officials at Nagpur. Quite contrary to the instructions of the DOT/BSNL, the above persons were repatriated to the AP Circle by letter No.TA/STB/20-2/REP/2 dt.21-11-2000, which was communicated by letter No.C.Mazdoor/BSNLIDE/RE/SD/2007-08/5 dt. 13-11-2007 of the Divisional Engineer. BSNL, Picket, Secunderabad to Sri P.Anjaiah in reply to a petition submitted under Right to Information Act, 2005. Hence, the Petitioner workmen were denied the similar benefits and thus discriminated without any justifiable cause. The Petitioner Workmen submit that in the meanwhile the Department of Telecommunication has undergone structural changes and the services rendered by DOT/DTD/DTO have been entrusted to Bharat Sanchar Nigam Limited, a central public sector enterprise. The Petitioner Workmen hails from poor families and the Respondent /Management ought to have acted as model employer by considering their cases in a positive manner instead of rejecting their claims without any cogent reasons and without verifying the records. The Petitioner Workmen further submit that the Department of Telecommunications issued Lr.No.269-10/89-STN dt.7-11-1989 introducing a scheme for grant of temporary status and regularization to the casual labourers working in the said Department. Initially the scheme did not cover the part time casual labourers working in the Department. While so, the DoT vide in its Order No.269-13/99-STN-II dt. 16-9-1999 as one time measure decided to convert the part time casual labourers with four or more hours of duty per day and who have worked for more than 240 days in preceding 12 months into full time casual labourers. Again the DoT issued Order No.69-13-STN-II dt.25-8-2000 decided to convert part time casual labourers with less than four hours duty per day and who have worked for 240 days in the preceding 12 months full time casual labourers. Subsequently, on the demand of Unions the DoT vide its order No.269-94/98-STN-II dt.29-9-2000 decided to regularize the services of all part time. full time casual labourers and casual labourers with temporary status. In the light of the above orders the Petitioner Workmen are also entitled for regularization after granting temporary status. The Petitioner Workmen further submit that they were disengaged without any order or proceedings by the Respondent /Management though they have worked for more than a period of 240 days in a calendar year and thus entitled for protection under Sec.25F of the Industrial Disputes Act. The Respondent /Management failed to follow the mandatory requirement under the said provision and thereby the Petitioner Workmen are entitled to the benefit and protection as envisaged under Sec.25-F of Industrial Disputes Act. In order to disengage a person from the rolls of an Industrial Management, being the instrumentality of state under Art. 12 of the Constitution of India, the Responders Management has to publish the seniority list of casual mazdoors of Telecom District as per the provisions of Rule 77 of Industrial Disputes (Central) Rules 1977 or of the casual Mazdoors working in the existing Sub-Division. The said Rule reads as under: In fact, as per the instructions of the Director General, Telecom, New Delhi issued instruction dt.17-19-1988 in supersession of earlier orders on the subject to streamline the regular absorption or retrenchment of casual labourers laying down that,

"77. Maintenance of seniority list of workmen: The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the Industrial establishment at least seven days before the actual date of retrenchment"

In fact, as per the instructions of the Director General Telecom, New Delhi issued instruction dated 17.9.1988 in supersession of earlier orders on this subject to streamline the regular absorption or treatment of casual labourers laying down that,

1. A combined seniority list of all casual labourers in respect of a recruitment unit will be maintained. This list will include all casual labourers working within the territorial jurisdiction of the recruitment unit for various functional units such as Telecom Projects, Maintenance Regions, Electrification and Quality Assurance Circles, etc, to which they are attached.

2. Absorption of Casual Labourers against regular Group "D" posts or retrenchment due to exigencies, such as non-availability of work, will be done strictly according to the combined seniority list.

3. Non-recruitment Circles/Units should ensure that their requirement of Casual Labourers is invariably met through the respective recruitment units concerned of the territorial recruitment circle only."

It is submitted that the Petitioner Workmen are having the records and also the Respondent /Management had considered the similarly situated persons as such they are also entitled for the similar relief. When the workmen submitted against the illegality committed by the Respondent /Management, the application was rejected as time barred by proceedings dt.9-9-2011 of the Assistant Commissioner of Labour (Central), Hyderabad. As against this, the Petitioner Workmen submitted appeal on 20-10-2011, the delay was condoned and directed them to file claim statement. The impugned proceedings dated 8.6.2010 are ex facie legal, arbitrary, discriminatory and contrary to record and violative of principles of natural justice and violative of Art. 14, 16 and 21 of the Constitution of India, besides violative of provisions of Sec.25-F, G, and H of the Industrial Disputes Act, 1947. Therefore, prayed to declare the impugned proceedings dated 8.6.2010 are illegal, arbitrary and violative principles of natural justice etc., and to direct the Respondent to grant temporary status and regularized them etc..

3. **Respondent filed counter denying the averments of the Petitioner as under**:

It is submitted that the Respondent has been wrongly impleaded since no relief could be claimed with respect to the engagement by the Railway Electrification Project period from 1-1-1994 to 30-09-1996 and is distinct and different and the said engagement is not the concern of the answering Respondent and the communication No.TA/STB-20/2/REP/06- 10/33 dt.8-06 2010 is pursuant to the orders of the Hon'ble Tribunal and is not relevant for the purpose of the claim and the Hon'ble Tribunal is not vested with any jurisdiction with regard to casual labour as per full Bench decision in A.Padavalli and others Vs. CPWD 1990 (14) ATC914. It is submitted that the Petitioner s have raised an industrial dispute before the Regional Labour Commissioner, on 28-09-2010 resulting in failure report by the Regional Labour Commissioner and then this reference of the dispute. The composite reference is without any details and the dates apart from the fact that the grant of temporary status does not fall within the scope of Section 2(k) of 1.D.Act, 1947 and the maintainability is to be decided as a preliminary issue. The Industrial Dispute Act, 1947 as amended on 15-09-2010 by Amendment Act, 24 of 2010 stipulated that a dispute could be referred for adjudication before the expiry of 3 years from the date of discharge, dismissal retrenchment or otherwise termination of service and as such barred by limitation and there is no mention of date of termination. Further, it is submitted that the claim petition by Sri.M. Kumaraswamy and 6 others without any details as such is not capable of any adjudication and the self supporting documents without any indication as such in the reference is misconceived, baseless and incorreet with no scope for any adjudication and there is no termination by the answering Respondent at any time. Hence, prayed to dismiss the claim of the Petitioner workmen.

4. **On the basis of rival contentions and pleadings of both the parties, following issues emerge for adjudication**:-

I. Whether the action of management of CGM, BSNL, Hyderabad in terminating the services of S/Sri M. Kumaraswamy and 37 others is legal and justified?

II. Whether the workmen S/Sri M. Kumaraswamy and 37 others are entitled for temporary status mazdoor in the Respondent management?

III. Whether the claim of the Petitioner workmen is time barred as per provision of I.D. Act, 1947?

IV. To what relief the Petitioner workmen are entitled?

5. Petitioner workmen filed chief affidavit of evidence of witness but did not prove any documents in oral evidence. On behalf of the management witness MW1 has filed chief evidence affidavit.

Findings:-

6. **Issue No.I**:- This issue pertains to the question whether the action of the management of CGM, BSNL, Hyderabad in terminating the services of Sri M Kumaraswamy and 37 other workmen is legal and justified. In this context, Respondent in his counter has submitted that Respondent has been wrongly impleaded in respect of the engagement by the Railway Electrification Project period from 1.1.1994 to 30.9.1996 and is distinct and different and the said engagement is not concern to the answering Respondent. Further, it is contended that the said reference about the Petitioner workmen is not relevant for the purpose of the claim and Hon'ble Tribunal is not vested with any jurisdiction with regard to casual labour as per full bench decision of Hon'ble court. Further, it is submitted that the claim petition filed by the Petitioner Workmen and their pleas without any details as such is not capable of any adjudication and the self-supporting documents without any indication as such the reference is misconceived, baseless and incorrect with no scope for any adjudication and there is no termination by the answering Respondent at anytime. Further, Respondent in support of the contention examined witness MW1 who has reiterated the contention raised in the counter. Despite sufficient opportunity this witness has not been cross examined on behalf of Petitioner workmen. Therefore, the testimony of the witness MW1 in chief remain uncontraverted.

7. On the other hand, Petitioner workmen submitted that they were engaged as casual mazdoor from 1.1.1994 in the erstwhile Department of Telecommunication of the Central Government. Subsequently the Divisional Engineer, Department of Telecom, Secunderabad issued orders to engage 500 manpower including the Petitioner workmen as casual mazdoors as a special case to work in RE project between Vijayawada to Nagpur. Further, it is submitted that the relevant payment vouchers has been filed herewith for consideration. Respondent has disengaged the Petitioner workmen without any order or proceeding whereas Petitioner workmen had worked for more than 240 days in a calendar year and thus entitled for protection under section 25-F of the Industrial Disputes Act. Further, it is submitted that Respondent management failed to follow the mandatory requirement under the said provision and thereby Petitioner Workmen are entitled to the benefit and protection as envisaged under section 25 F of Industrial Disputes Act.

8. In view of the rival submission made by the parties, in my view, before delving into the question of legality of the action of the Respondent management in terminating the workmen's service, it would be apposite to go through the relevant provision contained under ID Act:-

Section 25F provides:-

Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month' s notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice:

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

Compensation to workmen in case of transfer of undertakings.

Section 25B defines the term continuous service

- For the purposes of this Chapter,--

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock- out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer--

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than--

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

9. Further, as regards the question of initial burden of proof to prove the mandatory condition precedent of 240 days of continuous service in a calendar year just preceding termination as envisaged u/s. 25F of I.D. Act, 1947 Hon'ble Supreme Court has laid down the principle in its decisions which are discussed as hereunder:-

In Rajasthan State Ganganagar S. Mills Ltd. v. State of Rajasthan and Anr. (2004) Apex Court held:

"It was the case of the Workman that he had worked for more than 240 days in the year concerned. This claim was denied by the appellant. It was for the claimant to lead evidence to show that he had worked for 240 days in the year preceding the date of his termination. He has filed an affidavit. It is statement which is in his favor and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that in fact the claimant had worked for 240 days in a year These aspects were highlighted in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25. No proof of receipt of salary or wages for 240 days or order or record in that regard was produced. Mere non-production of the muster roll for a particular period was not sufficient for the Labour Court held that the Workman had worked for 240 days as claimed."

In Municipal Corporation, Faridabad v. Siri Niwas (2004 (8) SCC 195), held "*the burden was on the Workman to show that he was working for more than 240 days in the preceding one year prior to his alleged retrenchment." In M.P. Electricity Board v. Hariram (2004 (8) SCC 246) the position was again reiterated in paragraph 11 as follows: "The above burden having not been discharged and the Labour Court having held so, in our opinion, the Industrial Court and the High Court erred in basing an order of reinstatement solely on an adverse inference drawn erroneously ..*"

In the case of Manager, RBI, Bangalore vs. S Mani (2005) SCC Page 100, the 3 Judges Bench of the Apex Court held that "*the initial burden of proof was on the Workman to show that he had completed 240 days of service."*

Hon'ble Apex Court in the case of Mohan Lal vs Management BEL 1981 SCC page 225 has laid down the principle that how to count 240 days of service within one year it is held:

Before a workman can claim retrenchment, not being in consonance of Section 25 of the ID act. he has to show that he has been in continuous service of not less than 1 year with the employer who had retrenched him from service."

"Clause (2)(a) provides for a fiction to treat a Workman in continuous service for a period of one year despite the fact that he has not rendered uninterrupted service for a period of one year but he has rendered period of 240 days during the period of 12 calendar service for months counting backwards and just preceding the relevant date being the date of retrenchment. In other words, in order to invoke the fiction enacted in clause (2)(a) it is necessary to determine first the relevant date, ie the date of termination of service which is complained of as retrenchment. After that date is ascertained. move backward to a period of 12 months just preceding the date of retrenchment and then ascertain whether within the period of 12 months, the Workman has rendered service for a period of 240 days. If these three facts are affirmatively answered in favor of the Workman pursuant to the deeming fiction enacted in clause (2)(a) it will have to be assumed that the Workman is in continuous service for a period of one year and he will satisfy the eligibility qualification enacted in Section 25-F"

In the case of **GM., BSNL and others V. Mahesh Chand AIR 2008 SC (Supp) 1328,** wherein the Hon'ble Apex Court have held,

"It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any Court or Tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside."

Further, Hon'ble Supreme Court in the case of **M/s. Essen Deinki vs. Rajiv Kumar AIR 2003 Supreme Court 38** has laid down principle regarding legal requirement of evidence to prove the fact of 240 days continuous service in a calendar year as envisaged under section 25-F of the Industrial Disputes Act as discussed hereunder:-

"*The proof of working for 240 days is stated to be on the employee in the event of any denial of such a factum and it is on this score that this Court in Range Forest Officer v. S.T. Hadimani (2002 (3) SCC 25) was pleased to state as below :*

" In our opinion the Tribunal was not right in placing the onus on the management without first determining on the basis of cogent evidence that the respondent had worked for more than 240 days in the year preceding his termination. It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days in a year. No proof of receipt of salary or wages for 240 days or order or record of appointment or engagement for this period was produced by the workman. On this ground alone, the award is liable to be set aside. ."

10. Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above, initial burden of proof lies upon the Petitioner workmen to prove the non-fulfilment of condition precedent of their retrenchment hence, in violation of provision contained u/s.25-F of the I.D. Act, 1947.

11. Now, we have to examine the evidence produced by the Petitioner workmen in support of their assertion made in the claim statement. It is divulge from the record that during the course of hearing Petitioner workmen filed the chief affidavit of the witness Sri M Subhash, S/o Ramulu in support of claim statement, but on 25.1.2024 Petitioner workmen filed memo with the prayer that witness Sri M. Subhash is not available for evidence, hence, Sri J. Chandramouli be permitted to file affidavit of evidence on behalf of all the Petitioner workmen. The said memo came to be allowed by the court vide order dated 25.1.2024 in view of prayer made by Petitioner workmen. But, despite sufficient number of opportunities granted to the Petitioner, no evidence of any witness was produced by the Petitioner in support of their claim. Thereafter, opportunity of the evidence of Petitioners was closed. Although, Respondent filed chief statement affidavit of witness MW1, but the Petitioner did not cross examine witness MW1. Thus, no oral evidence has been adduced by the Petitioners in support of their claim as asserted in the claim statement. Petitioner has filed number of documents in evidence through list dated 27.12.2012 from Sl.No. 1 to 15. But these documents have not been proved / exhibited by examining any witness. Therefore, in view of law laid down by the Hon'ble Apex Court in **M/s. Essen Deinki vs. Rajiv Kumar AIR 2003 Supreme Court 38** the claim of the Petitioner workmen that they had so worked for 240 days continuously in a calendar year, is not established for the want of proof of oral as well as documentary evidence. The documents filed in evidence has not been proved and exhibited by examining any competent witness. Mere filing the photocopies of the documents are not sufficient proof and cannot be read and accepted in evidence.

12. Therefore, in view of the fore gone discussion and law laid down by the Hon'ble Apex Court as discussed above, the Petitioner workmen utterly failed to prove their assertion that they have worked for 240 days continuously in a calendar year preceding their termination. Therefore, the condition precedent for application of the provision contained under section 25-F of the Industrial Disputes Act is not found to be proved and established by any evidence. The argument of the Petitioner that the action of the management in terminating their services is in contravention of the provision of section 25 F of the Act is not tenable. Thus, in view of the fore gone discussion, I am constrained to hold that the action of the management of CGM, BSNL, Hyderabad in terminating the services of the Petitioner workmen is legal and justified.

Issue is decided against the workmen.

13. **Issue No.II**:- This issue pertains to the question whether the Petitioner Workmen are entitled for temporary status mazdoor in the Respondent management. Petitioner Workmen have averred that they were engaged as casual mazdoor from 1.1.1994 and they have already worked for more than a period of 240 days in a calendar year and thus entitled for temporary status. Further, it is argued that they have been requesting the Respondent for regularization still no action has been taken by the management. They have also made a representation through various authorities to the Respondent but Respondent did not consider their claim/request. Further, it is submitted that in view of the order of Hon'ble Central Administrative Tribunal, the Petitioner gave representation to the management along with the order of the Tribunal but management instead of appreciating the circumstances and without proper verification of records and without providing opportunity of being heard has rejected the representation vide order dated 8.6.2010 in a mechanical way in cyclostyle order. Further, it is contended that the impugned proceeding dated 8.6.2010 of the Respondent is ex-facie, illegal, arbitrary, discriminatory and violative of principles of natural justice. Further, it is submitted that when juniors and similarly situated persons were regularised the Respondent management ought to have extended the same benefit to the Petitioner workmen also. Further, the reasoning recorded by the Respondent management as mentioned in its order stating that the benefit of extension of temporary status under scheme dated 7.11.1989 only for casual labours who have engaged prior to 31.10.1985 after 26.8.1988 is not tenable and when the Respondent management has extended similar benefit to similarly situated persons, having extracted work from the Petitioner workmen during subsequent period, denial of said benefit amounts to clear act of discrimination and victimization.

14. Per contra, Respondent has submitted that Central Government in the Ministry of Labour vide letter No.L-40012/ 14/2011-IR(DU) dated 9.1.2012 has referred the claim for adjudication. The composite reference is without any details and the dates apart from the fact that the grant of temporary status does not fall within the scope of section 2(k) of I.D. Act, 1947 and the maintainability is to be decided as a preliminary issue. In support of the contention the Respondent has filed chief statement of affidavit of witness MW1 who has reiterated the contentions raised in the counter and the testimony of MW1 remained uncontraverted in the absence of cross examination by the Petitioner workmen.

15. The perusal of the record goes to show that in support of their claim for temporary status Petitioner workmen has not produced any oral or documentary evidence to prove the fact that they had worked for 240 days in a calendar year and on that basis they are entitled for temporary status. Further, Petitioners failed to produce any evidence on record to the effect that the junior workmen has been grant of temporary status in preference of seniority of Petitioner. There is no iota of evidence on record in support of claim of Petitioner for temporary status. Mere filing claim statement cannot is not sufficient. Per contra, Respondent management has denied the fact that temporary status has been granted to junior workmen.

16. Hon'ble Supreme Court in the case of **Manager, RBI, Bangalore vs. S. Mani & Ors., on 14.3.2005 AIR 2005 Supreme Court 2179** have held that, merely the completion of 240 days of continuous service by the workmen by itself does not give rise to claim of permanence in the employment. Hon'ble Supreme Court have held that:-

"It may not be out of place to mention that completion of 240 days of continuous service in a year may not by itself be a ground for directing an order of regularization. It is also not the case of the Respondents that they were appointed in accordance with the extant rules. No direction for regularization of their services was, therefore, could be issued."

Thus, in view of the law laid down by the Hon'ble Apex Court as discussed above the Petitioner Workmen failed to prove the fact by any evidence that they were appointed in accordance with the extant rules and had worked for 240 days of continuous service in the Respondent management preceding their termination. Thus, they failed to prove the claim by any oral and documentary evidence. Therefore, for the want of evidence the claim of Petitioner for temporary status is not tenable and liable to be dismissed.

This issue is decided against the Petitioner workmen and in favour of the Respondent.

17. **Issue No.III**:- Further, Respondent has contended that as per Amendment Act of 2010 the dispute could be referred for adjudication before the expiry of 3 years from the date of discharge/dismissal/retrenchment or otherwise termination of service, under Sec. 10 of I.D. Act, 1947 but the present dispute has been referred beyond the period of 3 years therefore, it is barred by limitation.

18. In this context, perused the record. Admittedly Petitioner workmen has been disengaged/terminated from the service by the Respondent on 30.9.1996. The record reveals that the Petitioner workmen have been pursuing their dispute with the Respondent management by making representation to various authorities and filing petitions in different Courts at different levels, i.e., by filing Writ Petition No.757 of 2009 in the Hon'ble High Court of AP and also filed OA No.101/2010 before the Hon'ble Central Administrative Tribunal, Hyderabad. Further, in compliance of the order of Hon'ble Central Administrative Tribunal, Petitioner workmen have moved their representation dated 3.3.2010 before Respondent and it got disposed of by the Respondent management vide order dated 8.6.2010. Thereafter, the present reference of the dispute has been made by the Government of India vide letter dated 9.1.2012 to this Tribunal for adjudication. Therefore, from the above it is clear that after their termination from service Petitioner Workmen have been pursuing their dispute at different levels before concerned authorities. It is also pertinent to mention here that Petitioners have also approached Labour Commissioner, adjudication officer. Thus, they were continuously pursuing their dispute regarding termination before the authorities at different levels but could not succeed. Further, said amendment of limitation period for raising the industrial dispute within 3 years came to effect on 15.9.2010 whereas the dispute arose much before the Amendment of 2010 in the year 1996. Therefore, the provision of amended I.D. Act, 1947 regarding limitation period for raising their dispute does not apply to the present case of the Petitioners.

This issue is answered in favour of workmen and against the Respondent.

19. **Issue No.IV:-** In view of the finding given at Issue Nos. I & II, the Petitioner workmen are not entitled for any relief as prayed for and thus, claim petition is devoid of merit and liable to be dismissed.

AWARD

In view of the finding given at Issue Nos. I,II & IV, the action of the Management of CGM, BSNL, Hyderabad in terminating the services of Sri M. Kumaraswamy and 37 Petitioners and not granting them 'temporary status mazdoor' is held legal and justified. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 28th day of May, 2025.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 23 जून, 2025

का.आ. 1138.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **महाप्रबंधक, मैसर्स. सिंगरेनी कोलियरीज कंपनी लिमिटेड, श्रीरामपुर, आदिलाबाद** के प्रबंधतंत्र के संबद्ध नियोजकों और **अध्यक्ष (भंडारी सत्यनारायण), तेलंगाना ट्रेड यूनियन काउंसिल, आदिलाबाद** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय- हैदराबाद पंचाट(संदर्भ संख्या 17/2013) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल -42025/07/2025/154-आईआर (डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 23rd June, 2025

S.O. 1138.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. ID. No. 17/2013) of the **Central Government Industrial Tribunal cum Labour Court– Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The General Manager, M/s. Singareni Collieries Co. Ltd., Sreerampur, Adilabad** and **The President (Bhandari Satyanarayana), Telangana Trade Union Council, Adilabad, Worker,** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42025-07-2025-154-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: **Sri IRFAN QAMAR**

Presiding Officer

Dated the 12th day of June, 2025

INDUSTRIAL DISPUTE No. 17/2013

Between:

The President (Bhandari Satyanarayana),

Telangana Trade Union Council,

H.No.5-295, Indira Nagar, opp. Bas stand,

Mancherial, Adilabad District-504208. ….. Petitioner

AND

The General Manager,

M/s. Singareni Collieries Co. Ltd.,

Sreerampur area, Sreerampur,

Adilabad District- 504303. …. Respondent

Appearances:

For the Petitioner : M/s. S. Bhagawanth Rao & S.V. Rama Devi, Advocates

For the Respondent: Sri Y.Ranjeeth Reddy, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L- 22012/ 204/2012-IR(CM.II) dated 4.12.2012 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Co. Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the Chief General Manager, M/s. Singareni Collieries Co. Ltd., Sreerampur area, Sreerampur, Adilabad Distt. Services of Shri Thotapalli Posham, Ex. Badli Coal Filler, SRP-I Inc., M/s. Singareni Collieries Company Ltd., Sreerampur Area with effect from 29.5.2001 is justified or not? To what relief the applicant is entitled for?"

The reference is numbered in this Tribunal as I.D. No. 17/2013 and notices were issued to the parties concerned.

2. **The averments made is the claim statement are as follows**:

It is submitted that the Petitioner workman was appointed as an employee on 12-2-1989, and he become permanent Employee during the course of service in the Company. The Service conditions of the Petitioner are governed by various standing orders of Company. It is submitted that the workman could not attend to his duties during the year 1-1-1999 to 31-12-1999 due to his ill health, while so the Respondent issued a Charge Sheet dt: 16-9-2000 and the workman submitted reply, but that could not be considered by the Respondent Company and Respondent dismissed the workman from Service through proceedings No.SRP-1(P)PER/35A/04/1793, dated 10.10.2000. It is further submitted that the workman preferred an appeal to the Higher authorities as per settlements Dt: 9-8-2011 that went in vein, and the authority mechanically upheld the orders of Chief General Manager, Bellampalli. It is submitted that the Workman has put in 11 years of service without any red remark and the workman has got still 10 years of service for superannuation. The removal from service of the workman, person who has rendered more than 10 years of qualified service is arbitrary, illegal and against to the principles of natural justice and also against to the provisions of the Standing Orders of the Company. It is submitted that the "Award And Settlements" both are Decrees in terms of Industrial Disputes Act. There was a Settlement before the Regional Labour Commissioner at Hyderabad, that those who were removed from 1-1-2000 to 31-12-2004, cases can be considered by the Management as per the Circular P40/5911/IR/33, dated 10.3.2000, the workman was called for Interview on 16.11.2005 and the Petitioner workman attended the Interview, but the case of the Petitioner workman was not considered for re-employment as per the Settlement. If the Petitioner workman was given employment he would have been put in more than 10 years of additional service. Therefore, the non-Consideration of Settlement by the Company is very bad and against the law. It is submitted that the Respondent did not conduct enquiry properly and no documents were given to the Petitioner workman and no subsisting allowance was paid to him. The Respondent obtained thumb impressions on enquiry report and conducted enquiry. It is submitted that workman do not know the English language and enquiry conducted by the Respondent without mentioning contents therein is arbitrary, illegal and against to the principles of natural justice. It is submitted that after removal from the service by the Respondent to the Petitioner workman dt: 10-10-2000 the workman and children of Petitioner workman are fallen on roads with untold sufferings. The relationship between the Petitioner workman and Respondent is still continuing and workman has not reached the age of superannuation. Therefore, the workman has raised a conciliation before the Assistant Labour Commissioner (Central) thereby the matter has come to this Hon'ble court. It is prayed to reinstate the Petitioner workman into service with continuity of service and other attendant benefits and with full back wages by setting aside dismissal 1(P)PER/3SA/04/1793, dated 10.10.2000.

3. **Respondent filed counter denying the averments of the Petitioner as under**:

It is submitted that the Petitioner workman was appointed as Badli Coal Filler in the Respondent Company on 27.10.1990 and while working as Badli Coal Filler at SRP-1 Incline, he remained absent unauthorizedly from duty without sufficient cause for a number of days. During his service his attendance and performance was found very poor and quite unsatisfactory. The year wise musters the Petitioner had put in for the preceding 5 years from 1996 to 2000 are as follows:

Year	Musters
1996	077
1997	093
1998	099
1999	072
2000	029
2001 (upto April)	001

Thus, it is evident that the concerned workman was never regular to duties. Further, it is submitted that the Petitioner workman was required to put in a minimum of 190 musters in a year but he failed to put in the required musters in the year 1999 and he remained habitually absent without sufficient cause from duty for a number of days during the period from 01.01.1999 to 31.12.1999 and put in only 72 musters in the year 1999. The Petitioner workman was issued with a charge sheet bearing No. SRP.1/4/9/2K/2441, dated 16.09.2000 for his habitual absenteeism from duty during the year 1999 under Company's Standing Orders No. 25.25 for the misconduct committed by him which reads as follows:

"25.25: Habitual late attendance or habitual absence from duty without sufficient cause."

The Petitioner workman acknowledged the receipt of the charge sheet and did not submit his explanation, as such an enquiry was ordered. Enquiry notice bearing No.SRP.1/4/9/2000/2849, dated 27.10.2000 was issued directing the Petitioner workman to attend the enquiry on 20.11.2000 along with his witnesses and documentary evidence, if any, in support of his case. It is submitted that though the Petitioner received the said notice of enquiry, he failed to attend the enquiry on the specified date. However, he was given another opportunity and another notice of enquiry bearing No.SRP.1/4/9/2000/3307, dated 15.12.2000 advising the Petitioner to attend the enquiry on 20.12.2000 and he participated fully in the enquiry. It is submitted that as per the report of the Enquiry Officer, he was found guilty of charges leveled against him. It is submitted that a copy of the Enquiry Report together with report was served to him vide letter No.SRP. 1/4/9/2000/3409. dated 22.12.2000 advising him to submit his representation, if any, against the findings of the Enquiry Officer within seven days of receipt of the letter. It is submitted that despite receipt of the Enquiry Report, the Petitioner workman did not submit any representation in writing against the findings of the Enquiry Officer. It is submitted that the Disciplinary Authority after going through the entire enquiry proceedings and after evaluating all the evidence on record concurred with the findings of the Enquiry Officer. Since the charge framed and proved in the enquiry was grave and serious in nature warranting punishment of dismissal, after considering his past record and found no extenuating circumstances to take a lenient view, the Petitioner workman was dismissed from Company's Services with immediate effect vide Office Order No.SRP(P)/P(IR)35A/01/1793, dated 29.05.2001. Further, it is submitted that Sri Thotapalli Posham, continued to be as Badli Coal Filler till the date of dismissal without getting regularization of his services as Coal Filler. The averment of the Petitioner that he had submitted a reply to the charge sheet dated 16.09.2000 is not correct, hence denied. In fact, he had not submitted any explanation to the Charge sheet. It is submitted that the Petitioner workman preferred an appeal and he put in 11 years of service without any red mark are not correct, hence denied. In fact, the Petitioner workman neither preferred any appeal nor put in 190 musters in any year since 1996 to 2000. It is submitted that the dismissal order dated 29.05.2001 terminating the services of the Petitioner workman is not against to any statutory / mandatory provision of Law and it is quite in accordance with Standing Orders and by conducting domestic enquiry giving full and fair opportunity to the Petitioner to participate and by following the principles of natural justice and as such, the charges framed against the Petitioner workman are proved. Further it is submitted that on perusal of the records, it can be observed that the Petitioner was habitually and unauthorizedly absent from duty for a number of days i.e., about 232 in the year 1999 without any sanctioned leave nor report sick in the Company's hospitals and he admitted the mistake by undertaking in the enquiry that he would work regularly and sincerely in future which did not fulfill. The averment of the Petitioner that he was not considered for re employment as per the Settlement and as per Circular No.P.40/5911/IR/33 dated 10.3.2000 is not true and correct, hence denied. It is submitted that the domestic enquiry was conducted giving full and fair opportunity to the Petitioner to participate and by following the principles of natural justice and the Petitioner workman has admitted his guilt during the enquiry proceedings and assured that he will not remain absent in future and he did not choose to cross examine the Management Witness. Hence, the Domestic Enquiry conducted is legal and valid. Further, it is submitted that the punishment of dismissal imposed on him is neither unjust nor even disproportionate to the proved charge. His case is devoid of merits and there are no special reasons / grounds for adjudication in the instant case, under the aforesaid circumstances, the termination order passed by the management is just and proper. Further it is submitted that all the terminal benefits payable to the Petitioner workman such as Coal Mines Provident Fund, FBS, and Gratuity were already settled and paid on his request. The monthly pension which was also sanctioned is being paid regularly every month to the Petitioner workman by the Coal Mines Provident Fund Authorities. It is submitted that the Respondent Company employs about 67,578 persons, which includes workmen, executives and supervisors. The production results will depend upon the overall attendance and performance of each and every individual. They are inter-linked and inseparable. In this regard, if any one remains absent, without prior leave or without any justified cause, the work to be performed gets affected. The unauthorized absence creates sudden void, which at time is very difficult to fill-up, and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. That is the reason why the Respondents' Company is compelled to take severe action against the unauthorized absentees. Therefore, prayed to dismiss the claim petition as devoid of merits.

4. **On going rival pleadings of both the parties, following issues emerge for determination in the present case**:-

I Whether the domestic enquiry held against the Petitioner Workman is legal and valid?

II. Whether the action of Respondent, the Chief General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur area in terminating the services of the Petitioner Workman Sri Thotapally Posham, Badli Coal Filler vide order dated 29.5.2001 is legal and justified?

III. To what relief the Petitioner workman is entitled?

Findings:-

5. **Issue No.I**: - Legality and validity of domestic enquiry has been held legal and valid vide order dated 26.7.2023 as Petitioner Workman did not turn up for pressing the issue.

Thus, Issue No.1 is decided accordingly.

6. **Issue No.II**:- This issue pertains to the question whether the action of Respondent management in terminating the services of Petitioner Workman vide order dated 29.5.2001 is legal and justified. In this context Respondent has contended that the Petitioner Workman was appointed as a Badli Coal Filler in the Respondent company on 27.10.1990 and while working as Badli Coal Filler at SRP-1 incline he remained absent unauthorisedly from duty without sufficient cause for a number of days. During his service his attendance and performance was very poor and unsatisfactory. Further, it is contended that the Workman was never regular to the duties and did not complete minimum of 190 musters in a year. Petitioner he failed to put minimum required musters in the year 1999 and he remained habitually absent without sufficient cause from duty for a number of days during the period from 1.1.1999 to 31.12.1999 and put in only 72 musters in the said period. Further, it is contended that Workman was issued with a chargesheet dated 16.9.2000 for his absenteeism from duty during the year 1999 under Company's Standing Order No.25.25 for the misconduct committed by him. The Petitioner Workman acknowledged the receipt of the chargesheet and did not submit his explanation to it as such, the enquiry was ordered and the Workman attended the enquiry on 20.11.2000 along with his witness and documentary evidence. Further, it is contended that the domestic enquiry was conducted by giving full and fair opportunity to the Workman and Workman participated in the enquiry and principles of natural justice was followed during the enquiry. Further, Respondent contended that workman admitted his guilt during the enquiry proceeding and also stated that he will not remain absent in future. Petitioner workman did not choose to cross examine management witness. Hence, the domestic enquiry conducted is legal and valid. Further, it is contended that the punishment of dismissal imposed on the Workman neither unjustified nor disproportionate to the said charges. His case is devoid of merit and there are no special grounds for adjudication in the instant case so under the aforesaid circumstances. The termination order passed by Disciplinary Authority is just and proper. Further, it is submitted that all the terminal benefits payable to the Workman as such Coal Mines Provident Fund, FBS and gratuity were already settled and paid on his request. The monthly pension is also been sanctioned and is being paid regularly which was also sanctioned and paid every month to the Petitioner Workman by the Coal Mines Provident Fund authorities. Therefore, the claim petition is devoid of merit hence, prayed to dismiss the same.

7. As regards the justification of punishment of dismissal of Petitioner from service of the Workman the Respondent submitted that the production in the Respondent Company depend upon the overall attendance and performance of each and every individual and they are interlinked and inseparable. If anyone remains absent without any leave or without any justified cause, the work to be performed gets affected. Such unauthorised absence creates sudden void which at a time is very difficult to fill up and there will be no proper planning and already planned schedules get suddenly disturbed without prior notice. That is the reason why Respondent company is compelled to take severe action against the authorised absentees. Therefore, prayed to dismiss the claim petition.

8. Perused the record of domestic enquiry. The record of enquiry goes to reveal that chargesheet dated 16.9.2000 was served upon the CSE Workman Sri Thotapalli Posham and that contains the charge against the Workman under Company's Standing Order No.25.25 for committing misconduct of habitual absenteeism from duty without sufficient cause. The details of the period of absence from duty of the workman is mentioned in the charge sheet. Workman CSE did not prefer to submit any explanation in response to the chargesheet despite service of notice and enquiry proceedings commenced against the Workman on 20.12.2001. During the enquiry management witnesses were examined. Management witness Sri P. Radhakrishna, Grade-I clerk of SRP -I incline has deposed that Petitioner workman was habitual absentee and he has put in only 72 musters in the calendar year 1999. He was served with the chargesheet and he has acknowledged the charge sheet which was based on Company's Standing Order No.25.25 for habitual absentees. Further, management witness deposed that the workman did not inform to his superiors for his unauthorised absence from the work for the aforesaid period. The Enquiry notice was served on the Workman which was acknowledged by him. Although Workman was extended opportunity to cross examine this witness but the CSE Workman did not avail of it. Therefore, the statement of the management witness remained uncontraverted that the CSE Workman had remained absent from duty unauthorizedly for the period mentioned in the chargesheet. Further, other witness Sri Stanley Jones, OS examined has stated the Workman Sri Thotapalli Posham is a habitual absentee and has put in only 72 musters in the year 1999. As the Workman did not attend his duty he was not paid wages for the that period. The Management witness also produced document in evidence C registers, pay sheets for the period January 1999 to December 1999 in support of his statement. The workman was provided the opportunity to cross examine this witness but the CSE Workman did not avail of it. Therefore, the statement of this witness also remained uncontroverted in respect of charge levelled against him. Further, the statement of the CSE Workman was recorded and in his statement he has admitted that he remained absent from duty habitually and unauthorisedly during that period mentioned in the chargesheet, because of his family problems and he also states that now onwards he will perform his duty regularly.

9. On going the evidence recorded during the enquiry and on appreciation of the evidence, Enquiry Officer submitted the enquiry report dated 20.12.2001 holding the CSE workman guilty of the charge of habitual absenteeism under Company's Standing Order No.25.25. Further, enquiry report was served to the Workman but he failed to submit any written representation before the Disciplinary Authority and therefore, the order of imposition of punishment vide order dated 29.5.2001 was passed by the Disciplinary Authority, whereby Petitioner Workman was dismissed from Company's service with immediate effect.

10. Therefore, in view of the above there is no illegality or infirmity and perversity in the disciplinary proceeding and in the order of dismissal passed by Respondent. There is ample evidence on record of enquiry proceeding to prove charge that the Petitioner Workman remained unauthorisedly absent from duty in year 1999 for the period mentioned in the chargesheet. The conduct of workman Petitioner is in contravention of the Company's Standing Order No.25.25 and it is a gross misconduct and punishment of dismissal from the service is commensurate to the gravity and seriousness of charge.

11. Although, the Petitioner has taken the plea that he could not attend his duties during the period January, 1999 to 31.12.1999 due to his ill-health but no such pleas has been taken by the Petitioner Workman before the enquiry and no documents of his illness and treatment has been produced by him to corroborate his plea of illness. Where Petitioner before the enquiry has taken contrary plea that due to family problems he could not attend the duty during the alleged period as mentioned in the chargesheet. Thus, the plea taken by the Petitioner is self contradictory and in the absence of any documentary evidence it is not believable and tenable.

12. It is settled law that unauthorized absence from duty without sanctioned leave and sufficient cause is a serious misconduct and liable to be dealt with major punishment. In this context, few decisions of Hon'ble Courts are relevant which are referred as hereunder:-

In State of U.P. V. Ashok Kumar Singh 1996 (1) SCC 302, wherein the Apex Court had held:-

"Having notices the fact that the first respondent has absented himself from duty without level on several occasions, we are unable to appreciate the High Court's observation that 'his absence from duty would not amount to such a grave charge. Even otherwise on the facts of this case, there was no justification for the High Court to interfere with the punishment holding that 'the punishment does not commensurate with the gravity of the charge' especially when the High Court concurred with the findings of the Tribunal on facts. No case for interference with the punishment is made out."

In the case of **North Eastern Karnataka R.T. Corpn. v. Ashappa decided on 12 May, 2006 wherein, the Apex Court had held:-**

"Remaining absent for a long time, in our opinion, cannot be said to be a minor misconduct. The Appellant runs a fleet of buses. It is a statutory organization. It has to provide public utility services. For running the buses, the service of the conductor is imperative. No employer running a fleet of buses can allow an employee to remain absent for a long time. The Respondent had been given opportunities to resume his duties. Despite such notices, he remained absent. He was found not only to have remained absent for a period of more than three years, his leave records were seen and it was found that he remained unauthorisedly absent on several occasions. In this view of the matter, it cannot be said that the misconduct committed by the Respondent herein has to be treated lightly.

In Delhi Transport Corporation v. Sardar Singh [(2004) 7 SCC 574], the Apex Court held:

"11. Conclusions regarding negligence and lack of interest can be arrived at by looking into the period of absence, more particularly, when same is unauthorised. Burden is on the employee who claims that there was no negligence and/or lack of interest to establish it by placing relevant materials. Clause (ii) of para 4 of the Standing Orders shows the seriousness attached to habitual absence. In clause (i) thereof, there is requirement of prior permission. Only exception made is in case of sudden illness. There also conditions are stipulated, non-observance of which renders the absence unauthorised."

In State of U.P. v. Sheo Shanker Lal Srivastava and Others [(2006) 3 SCC 276], it was opined that,

"the Industrial Courts or the High Courts would not normally interfere with the quantum of punishment imposed upon by the Respondent stating: "It is now well-settled that principles of law that the High Court or the Tribunal in exercise of its power of judicial review would not normally interfere with the quantum of punishment. Doctrine of proportionality can be invoked only under certain situations. It is now well-settled that the High Court shall be very slow in interfering with the quantum of punishment unless it is found to be shocking to one's conscience."

Further, the counsel for Respondent has also relied upon the decision of Hon'ble Supreme Court in the case of Nirmala J. Jhala Vs. State of Gujarat & Anr. On 18.3.2013 where in Supreme Court have held that, it is settled law position that the absence from duty without proper intimation is a grave offence warranting removal from the service.

13. Thus, in view of the fore gone discussion and law laid down by the Hon'ble Apex Court as discussed above, I am of the considered opinion that there is no illegality or impropriety or perversity in the impugned order dated 10.10.2000 of dismissal of the Workman from service passed by Respondent Disciplinary Authority and the claim petition is devoid of merit and liable to be dismissed.

Thus, Issue No.II is decided against the workman and in favour of the Respondent.

14. **Issue No.III**:- In view of the finding given in Issues No. I & II, the Petitioner has been found guilty of habitual absenteeism from duty unauthorizedly without sufficient cause in contravention of Company's Standing

Order No.25.25 and hence, has been dismissed from service after enquiry following principles of natural justice. Thus, Petitioner is not entitled to any relief and claim petition sans merit, hence, liable to be dismissed.

Therefore, Issue No.III is decided accordingly.

AWARD

The action of the Chief General Manager, M/s. Singareni Collieries Co. Ltd., Sreerampur area, Sreerampur, Adilabad Distt. in terminating the services of Shri Thotapalli Posham, Ex. Badli Coal Filler, SRP-I Inc., M/s. Singareni Collieries Company Ltd., Sreerampur Area with effect from 29.5.2001 is held justified. The workman is not entitled to any relief as prayed for. Reference is answered accordingly.

Award is passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and signed by me on this the 12th day of June, 2025.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 23 जून, 2025

का.आ. 1139.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **अध्यक्ष, उड़ीसा झींगा बीज उत्पादन आपूर्ति एवं अनुसंधान केंद्र (ओएसएसपीएआरसी) केरल** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्रीमती अंबिका साहू, ओडिशा** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, भुवनेश्वर पंचाट **(संदर्भ संख्या 45/2016)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल - 42025-07-2025-146- आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 23rd June, 2025

S.O. 1139.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 45/2016**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The President, Orissa Shrimp Seed Production Supply & Research Centre (OSSPARC), Kerala** and **Smt. Ambica Sahu,Odisha** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42025-07-2025-146-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,

Presiding Officer, C.G.I.T.-cum-Labour Court,

Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 45/2016

Filed under section 2(A)(2) of the Industrial Disputes Act.

Date of Passing Order – 25th February, 2025

Between :-

Smt. Ambica Sahu,

W/o. Late Narendra Sahu,

Bada Sahi, Gopalpur-on-Sea,

Dist. Ganjam, Odisha.

… Applicant-Workman.

(And)

The President, Orissa Shrimp Seed Production

Supply & Research Centre (OSSPARC) MPEDA House,

Panampilly Avenue, Kochi – 682 036, Kerala.

… Management-Opp. Party.

Appearances:

Mr. Amar Shoo, Advocate.… For the 1st Party-Management.

Mr. Kailah Chandra Mishra… For the Applicant-Workman.

ORDER

This order is being passed on an application of applicant-workman filed under section 2-A(2) of the Industrial Disputes Act (herein-after referred as an Act).

2. The case of the applicant-workman as per his statement of claim is as follows:-

That he was working under the 1st Party-Management since 10.08.1993 and he was illegally relieved from service on 31.03.2010 by the 1st Party-Management, whereas he had been assured by the 1st Party-Management for disbursement of his arrear dues as well as his rehabilitation. The 1st Party-Management has formulated Service Rules and as per the said rule on successful completion of probation on first appointment every employee shall be confirmed. As per the rules formulated by the Management the date of retirement from service was 60 years and there was no such provision for voluntary retirement scheme, but calling the workman by the Management to submit option for VR Scheme was unconstitutional. Though, he did not opt for VR Scheme floated by the Management he was forced to sign the format for VR Scheme and he was assured for rehabilitation for his livelihood. Since, the action of the Management was neither legal nor justified the 2nd party-workman raised a dispute before the R.L.C.(C) Bhubaneswar on dated 28.11.2013 and when the matter was not resolved he had filed this application under section 2-A(2) of the Act with a prayer to pass an order of his reinstatement of his service with full back wages.

3. The case of the 1st Party-Management as per its written statement is as follows:-

That the present proceeding filed by the applicant under section 2-A(2) of the I.D. Act is not maintainable in the eye of law as the same is grossly barred by limitation. The applicant workman has voluntarily opted for Special VR Scheme floated by the Management and the workman has received all the benefits under Special V.R. scheme. After that the applicant-workman in an afterthought and with ill intention had raised industrial dispute under section 2A(2) of the I.D. Act which is grossly barred by limitation. The applicant workman has voluntarily taken retirement on 31.03.2009 from her service by way of opting special V.R. Scheme floated by the Management and also received all the benefits accrued to him, so the allegation of illegal removal from service on 31.03.2009 by the Management is false, frivolous and baseless. In the Industrial Disputes (Amendment) Act, 2010 Section 2(A)(2) & (3) are inserted for the benefits of the workman to raise his dispute with the management connected with or arising out of discharge, dismissal, retrenchment or termination, directly before Labour Court or Tribunal within a specific period of three years of such alleged dispute, but the applicant has filed his application much after three years.

A prayer has been made to reject the application of the applicant-workman on the ground of limitation.

4. After going through the pleadings of both the parties it is quite apparent that the 2nd party-workman/applicant has filed this application under section 2-A(2) of the I.D. Act on 28.06.2016 whereas it is the claim of the applicant that he was relieved from service on 31.03.2010.

5. At this stage the Tribunal thinks it proper to discuss here the provisions of the Section – 2(A)(3) of the I.D. Act:-

Section 2-A(3) of the Act specifically provides that the application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment, or otherwise termination of service as specified in sub-section(1).

6. In the instant case the applicant-workman has raised the dispute under section 2-A(2) of the Act after expiry of more than seven years of his alleged termination/retrenchment, so the petition filed by the applicant is not within the prescribed period provided under the provisions of the I.D. Act.

7. After considering all the facts and circumstances of the case the Tribunal finds and holds that the application filed under section 2-A(2) of the I.D. Act is not maintainable as it is time barred. Hence, the application filed under section 2-A(2) of the Industrial Disputes Act is rejected and the case is dismissed.

8. Order is passed accordingly.

9. A copy of this order is sent to the appropriate government for notification as required under section 17 of the I.D. Act, 1947. File is consigned to record room.

Dictated &Corrected by me.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 23 जून, 2025

का.आ. 1140.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आईएनजी वैश्य बैंक (कोटक महिंद्रा बैंक) के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय **लखनऊ** के पंचाट (75/2015) प्रकाशित करती है।

[सं. एल – 12025/01/2025- आई आर (बी-I)-71]

सलोनी, उप निदेशक

New Delhi, the 23rd June, 2025

S.O. 1140.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.75/2015*)* of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of ING VYSYA Bank (Kotak Mahindra Bank) and their workmen.

[No. L-12025/01/2025- IR (B-I)-71]

SALONI, Dy. Director

ANNEXURE

BEFORE THE PRESIDING OFFICER

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, LUCKNOW

I.D. No.75 of 2015

Akhilesh Shrivastav, aged about 37 years,

S/o Late Shyam Mohan Lal Srivastav, R/o E-2157, Rajajipuram, Lucknow

……. Workman

Versus

1. ING VYSYA Bank (Kotak Mahindra Bank),

ING VYSA House, 22, MG Road, Bangalore 560001

Through its Deputy CEO through its Head

Employee Relations & People Process;

2. ING VYSYA Bank (Kotak Mahindra Bank),

Upper Ground Floor, Basant Tower, Alambagh,

Lucknow-226005 through its Branch Head

……Employer

Judgment

Case of claimant:

Sri Akhilesh Shrivastav-workman/applicant raised the present industrial dispute by way of filing an application under Section 2-A of the Industrial Disputes Act 1947 before this Tribunal.

Accordingly an I.D.Case No.75 of 2015 was registered.

In brief the facts as stated by the workman/applicant in his claim dated 30.11.2015 are as under:-

- Applicant was initially appointed as Sales Manager without any authority for supervisory nature vide letter of appointment dated 8.6.2010 and was posted under the opposite party no.3 in Lucknow.
- The work, conduct, performance and behavior of the applicant was excellent and no complaint, show cause notice was served upon the workman during his entire service period of about five years i.e. since his date of appointment as he was a regular employee of the Bank.
- The applicant proceeded on medical leave w.e.f. 17.11.2014 with the advice of the doctor and the same has been informed in writing to the opposite party no.3 along with the medical prescriptions and other required documents for a period of five days but there was improvement in his ill health and as per doctor's advice the workman was bound to remain under treatment.
- The wife of the applicant time to time had informed the respondent no.3 in regard to her husband treatment by submitting the reports and medical prescriptions along with leave applications.
- The services of the applicant/workman have been terminated w.e.f. 15.11.2014 with retrospective effect by the opposite party No.2 vide letter of termination dated 14.02.2015 without following due process of Law.
- Merely on the basis of nomenclature of the post of Sales Manager does not falls within the ambit of employer/management and also the post in question does not have any such power in the capacity of supervisory nature and also no such power is vested to take any disciplinary action against any employee of the respondent Bank and also he has no such power to go beyond the terms and conditions mentioned in the appointment order dated 08.06.2010 as he was initially appointed on probation period of six month and after completion of probation period, his services automatically deemed as regular as per appointment order.
- One Mr. Prabhat Gupta was newly appointed as Sales Manager and was posted in Hazratganj, Lucknow wherefrom he was transferred and posted on 10.11.2014 in Alambagh Branch, Lucknow wherein the workman was already working with full devotion and sincerity.
- The workman/applicant was proceeded on medical leave w.e.f. 17.11.2014 as per Doctor's advice due to hyper tension and later on he was on sanctioned leave till 14.02.2015 as his 54 days privilege leave + 90 days medical leave was balance and his leave was sanctioned, which is well established from perusal of the attendance register for the period wherein the respondent itself marked as "L" in front of his name.
- The salary for the period of sanctioned leave w.e.f. 17.11.2014 to 14.02.2015 has been transacted /credited in his Bank Account No. 555010215535 in ING VYSYA Bank (KOTAK MAHENDRA BANK),in every month meaning there by that the leave of the workman was sanctioned and he has never been asked by the respondents to workman regarding his absence as mentioned in the illegal termination order dated 14.02.2015 as his services has been terminated with retrospective effect w.e.f. 15.11.2014 while he was on sanctioned leave.
- After issuing termination order dated 14.02.2015, the salary for the period of sanctioned leave w.e.f. 17.11.2014 to 14.02.2015 which was paid to the workman/applicant, was deducted from his Provident Fund without any information and without any notice; as such the entire act of the respondents are biased, prejudiced and whimsical in nature one.
- The workman has never been informed by any of the respondents even the respondent no.3 that his leave has been refused.
- With a malafide intention the applicant/workman was transferred from Lucknow to Talbandi Bhai border of Pakistan on 14.11.2014 which is away more than 965 Km. from Lucknow while the newly and most junior

person should be posted therein but with a malafide intention he has been terminated under the pretext of unauthorized leave.

- Prior to passing the illegal and unjustified termination order dated 14.02.2015, neither any show cause notice nor any charge sheet even no enquiry has been conducted on the allegation of unauthorized leave while he was sanction leave which is well established from perusal of the attendance register as well as the leave application duly served on the respondents.
- The services of the workman has been terminated in utter violation of principles of natural justice as such the termination order dated 14.02.2015 is illegal and unjustified which is liable to be set aside and the workman is entitled to get reinstatement with all the resultant consequential benefits.

Thus, applicant prayed that the termination order dated 14.2.2015 be set aside and an order for reinstatement of applicant with continuity of service along with all consequential benefits be passed by this Tribunal.

Case of respondent:

On behalf of respondents the written statement was filed in which a preliminary objection was taken that the workman does not fall within the definition of 'workman' as defined under Section 2(s) of Industrial Disputes Act 1947 and in support of said plea it was also pleaded as under:-

- The applicant is not a Workman as defined under Section 2 (s) of Industrial Disputes Act, as such, the provision of Industrial Disputes Act is not applicable and the present application filed by the applicant is beyond the scope of adjudication by this Hon'ble Tribunal.
- The applicant joined the Bank in Supervisory cadre as Sales Manager on 18th June 2010 on cost to company basis. Initially, he was drawing fixed Annual Salary of Rs.4.56 Lakhs besides target linked incentive as applicable to him.
- The management of bank revised the salary and other components of applicant from time to time and finally, on 31st May 2014 his annual fixed component was revised to Rs.6.25 lakhs excluding variable pay and target linked incentive.
- The applicant was terminated from the services of the Bank vide order dated 14th Feb. 2015 by the Competent Authority and at the time of termination he was drawing a gross salary around Rs.52,000/- per month.
- The applicant since his joining to the bank was mainly performing Supervisory duties as Sales Manager - Liabilities Sales at Lucknow branch as well as Alambagh branch of Bank. He was supervising the Sales team of 4 to 5 Sales officers at the branches. Some of the officers who were directly reporting to him at different period since his joining are Atul Dixit, Poonam Tripathi, Geeta Singh, Durgesh Kumar Mishra, Nimesh Nagar, Gaurav Singh, Preeti Mishra, Sanjeev Tripathi, Saurabh Shukla, Uttam Pal, Vinay Kumar Shukla, Alok Kumar Yadav, Shilki Srivastava, Mohit Chanani, Harshit Prakash, Purnima Chaudhary & Neha Keshwani.
- All the above mentioned officers have served under the supervision of applicant. The applicant was exercising supervisory and managerial powers. The applicant was monitoring the selection process of his team members. The applicant was one of the members of the interviewing panel while appointing his team members. The interview assessment forms of his team members were signed by the applicant. He was selecting his team members. The applicant's decision was final while selecting his team members. The applicant was instrumental and the final authority in the selection of the employees who were reporting to him.
- The applicant was assigning duties to these officers and distributing the work to them. He was solely supervising the works of his team members.
- The applicant was having the powers to sanction the leave to his subordinate officers. The applicant was the leave sanctioning authority to these officers. He was exercising the powers to issue memo to his subordinates in case of their absence without the permission of applicant and instructing his subordinate officers to report back for duties and calling for explanation for their absence without his approval.
- The applicant had powers to recommend disciplinary action against his subordinate officers mentioned above in case of any irregularities committed by them including unauthorized absence. The applicant was evaluating the performance of his subordinate officers for their future promotion and increase in pay scale etc. Even at the time of termination/resignation of his subordinate officers, the applicant was exercising his supervisory powers. The acceptance/non-acceptance of resignations submitted by his subordinate officers were exercised by the applicant.

- The applicant was supervising and managing the various accounts opened for customers at the branches, wherein he was working as Sales Manager. His team was sourcing the accounts and he was the authority to permit the opening of the accounts sourced by his subordinate officers. The applicant was verifying the documents collected by his team members at the time of opening the accounts and he was authenticating the account opening forms as to due diligence complied by his subordinate officers while opening the accounts. He was interacting with the customers and verifying the documents with originals submitted by the customers. Only after his confirmation in writing as to the due diligence and KYC compliance, the accounts were opened at the branches wherein he worked as Sales Manager. In total, the applicant was exercising supervisory and managerial duties at the time of opening of the accounts at the branches.
- The other duties performed by the applicant at the branches were to ensure good quality of accounts and to focus on deepening the customer relationship and to ensure the compliance. All the above duties were performed through his team members. The applicant was in a supervisory and managerial capacity at the branches.
- In view of the supervisory and managerial role performed by the applicant, he cannot be labeled as a Workman. Hence, it is clear that the applicant is not a "workman" as defined under Sec 2 (s) of the Industrial Disputes Act. Since the applicant is not a workman the provision of the Industrial Disputes Act is not applicable and the present application filed by the applicant under the Act does not arise.

On the above said facts as pleaded by the respondents, the Learned counsel Sri Devashish Bhatt argued that claimant does not fall within the definition of 'workman' as defined under Section 2(s) of the Act, so the preliminary objections be decided first.

Accordingly, he requests that taking into consideration the said preliminary objections as well as law as laid down by the Hon'ble Supreme Court in the case of Lenin Kumar Ray Versus M/s. Express Publications (Maduari) Ltd. reported in 2024 (183) FLR 777, applicant has to first satisfy/establish that he falls under the category of 'workman' as given under Section 2(s) of Industrial Disputes Act 1947 and same may be decided first, thereafter, the matter may be heard and decided on merit.

Submissions on behalf of applicant

Sri R.K.Verma, learned counsel for the applicant Sri Akhilesh Srivastav on the basis of pleadings as pleaded in the statement of claim especially in Para-8, quoted below,

> "*That it is much relevant to mention here that merely on the basis of nomenclature of the post of Sales Manager does not falls within the ambit of employer/management and also the post in question does not have any such power in the capacity of supervisory nature and also no such power is vested to take any disciplinary action against any employee of the respondent Bank and also he has no such power to go beyond the terms and conditions mentioned in the appointment order dated 08.06.2010 as he was initially appointed on probation period of six month and after completion of probation period, his services automatically deemed as regular as per appointment order*."

And Broad Terms & Conditions of the Employment of Sri Akhilesh Srivastav, attached with the appointment order on the post of Sales Manager in Lucknow Branch dated 8.6.2010 filed by the applicant as Annexure-2 (on basis of following Clause no.7), reproduced hereinbelow:

> "*You shall treat all information, including ideas in whatever form, tangible or intangible, in any manner pertaining to the business of the bank or any affiliate or clients or business associates as absolutely confidential and would also include all proprietary and confidential information not generally known outside the Bank and so known only through improper means and the same shall be deemed to be 'Confidential information'. Without it being exhaustive, Confidential information as far as the Bank is concerned will mean the following:*
>
> *a) Profit margins and other such financial information*
>
> *b) Information relating to the Banks customers*
>
> c) *Information relating to the Bank and its activities*."

As well as evidence filed on affidavit and cross examination and on the basis of the following judgment, relevant portion quoted hereinbelow:

i) ***S.K.Verma Versus Mahesh Chandra & another reported in (1983)4 SCC 214*** (Para-9)

> "9. *A perusal of the above extracted terms and conditions of appointment shows that a development officer is to be a whole time employee of the Life Insurance Corporation of India. that his operations are to be restricted to a defined area and that he is liable to be transferred. He has*

no authority whatsoever to bind the Corporation in anyway. His principal duty appears to be to organise and develop the business of the Corporation in the area allotted to him and for that purpose to recruit active and reliable agents, to train them to canvass new business and to render post-sale services to policy-holders. He is expected to assist and inspire the agents. Even so he has not the authority to appoint agents or to take disciplinary action against them. He does not even supervise the work of the agents though he is required to train them and assist them. He is to be the 'friend, philosopher and guide' of the agents working within his jurisdiction and no more. He is expected to stimulate and excite tho agents to work, while exercising no administrative control over them. The agents are not his subordinates. In fact, it is admitted that he has no subordinate staff working under him. It is thus clear that the development officer cannot by any stretch of imagination be said to be engaged in any administrative or managerial work. He is a workman within the meaning of s. 2 (s) of the Industrial, Disputes Act."

ii) ***Sharad Kumar Versus Government of NCT of Delhi & others reported in 2002(93) FLR 826*** (Paras-25 & 26)

"*25. The Rajasthan High Court in the case of S.L.Soni vs. Rajasthan Mineral Development Corporation Ltd., Jaipur, (1986) LAB I.C. 468, S.C. Agrawal, J. (as he then was) considering the question whether an Assistant Manager (Accounts) came within the meaning of expression 'workman' under section 2(s) of the Act accepted the contention raised on behalf of the petitioner therein that the question could not be agitated before the High Court under Article 226 of the Constitution and the appropriate remedy for the petitioner was to seek a reference under Section 10 of the Industrial Disputes Act, made the following observations:*

> *"In my view the aforesaid contention urged by Shri Rangrajan must be accepted. In the present case there is a dispute between the parties as to whether the petitioner was a workman under section 2(s) of the Act at the time of the passing of the impugned order terminating his services. The said question involves determination of facts with regard to the nature of the duties that were being discharged by the petitioner while functioning as Assistant Manager (Accounts). Such a determination can only be made on the basis of evidence. The said question cannot be properly adjudicated in these proceedings under Article 226 of the Constitution and the appropriate remedy that was available for the petitioner was to raise an industrial dispute and have it referred for adjudication under Section 10 of the Act. The first contention urged by Shri Singhvi cannot, therefore, be accepted."(Emphasis supplied)*

26. Testing the case in hand on the touchstone of the principles laid down in the decided cases we have no hesitation to hold that the High Court was clearly in error in confirming the order of rejection of reference passed by the State Government merely taking note of the designation of the post held by the respondent i.e. Area Sales Executive. As noted earlier determination of this question depends on the types of duties assigned to or discharged by the employee and not merely on the designation of the post held by him. We do not find that the State Government or even the High Court has made any attempt to go into the different types of duties discharged by the respondent with a view to ascertain whether he came within the meaning of section 2(s) of the Act. The State Government, as noted earlier, merely considered the designation of the post held by him which is extraneous to the matters relevant for the purpose. From the appointment order dated 21/22 April 1983 in which are enumerated certain duties which the appellant may be required to discharge it cannot be held therefrom that he did not come within the first portion of the section 2(s) of the Act. We are of the view that determination of the question requires examination of factual matters for which materials including oral evidence will have to be considered. In such a matter the State Government could not arrogate on to itself the power to adjudicate on the question and hold that the respondent was not a workman within the meaning of section 2(s) of the Act, thereby terminating the proceedings prematurely. Such a matter should be decided by the Industrial Tribunal or Labour Court on the basis of the materials to be placed before it by the parties. Thus the rejection order passed by the State Government is clearly erroneous and the order passed by the High Court maintaining the same is unsustainable."

iii) ***Devinder Singh Versus Municipal Council, Sanaur reported in (2011) 6 SCC 584*** (Paras-12 & 14)

"*12. Section 2(s) contains an exhaustive definition of the term `workman'. The definition takes within its ambit any person including an apprentice employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward and it is immaterial that the terms of employment are not reduced into writing. The definition also includes a*

person, who has been dismissed, discharged or retrenched in connection with an industrial dispute or as a consequence of such dispute or whose dismissal, discharge or retrenchment has led to that dispute. The last segment of the definition specifies certain exclusions. A person to whom the Air Force Act, 1950, or the Army Act, 1950, or the Navy Act, 1957, is applicable or who is employed in the police service as an officer or other employee of a prison or who is employed mainly in managerial or administrative capacity or who is employed in a supervisory capacity and is drawing specified wages per mensem or exercises mainly managerial functions does not fall within the definition of the term `workman'.

14. Whenever an employer challenges the maintainability of industrial dispute on the ground that the employee is not a workman within the meaning of Section 2(s) of the Act, what the Labour Court/Industrial Tribunal is required to consider is whether the person is employed in an industry for hire or reward for doing manual, unskilled, skilled, operational, technical or clerical work in an industry. Once the test of employment for hire or reward for doing the specified type of work is satisfied, the employee would fall within the definition of `workman'."

iv) Judgment dated 23.2.1999 passed by Allahabad High Court in ***Central Bank of India Versus Assistant Labour Commissioner (2000) ILLJ 167 All*** (Para-14)

"*14. The role and function as discussed above clearly indicates that the Branch Manager in the present case, namely respondent No. 3 was employed exclusively in a managerial or administrative capacity and, therefore, he is not a workman within the meaning of Section 2(s) as is apparent on the face of the record. Therefore, there is no scope for the union to espouse the case of a person who is not a workman even though the union is that of workmen. An officer employed in a managerial or administrative capacity cannot be a member of a union of workmen. The qualification of a member of a workmens' union is that he should be workman himself. A person appointed in a managerial or administrative capacity not being a workman does not satisfy the qualification of being a member of a workmen's union. Therefore, even, if such person is somehow enrolled as a member of the workers' union, even then he cannot claim himself to be a workman simply because of his enrolment as a member of the union. Neither the union can espouse the case of such an officer under Section 10 of the Industrial Disputes Act. Even, if such reference is made by the State Government the same cannot confer any jurisdiction on the Labour Court or the Tribunal. The jurisdiction of the Labour Court and the Tribunal as observed earlier is confined to the dispute or difference between the employer and workman or workman and workman in view of the definition of industrial disputes which can only be referred by the appropriate Government under Section 10 to the Tribunal.*"

Accordingly, Sri R.K. Verma, learned counsel for claimant/Sri Akhilesh Srivastav submitted that he is a 'workman' as per the definition of Section 2(s) of the Act 1947.

Submissions on behalf of respondents:

Sri Devashish Bhatt Learned counsel for the respondents on the basis of preliminary objections taken by respondent stated hereinabove and on the basis of evidence filed on behalf of respondents in support of case on affidavit dated 12.11.2020 specially in Paras-4 to 9, quoted below:-

"4. *That as Sales Manager the claimant was discharging duties mainly supervisory in nature which was being handled by him independently. The nature of the jobs included recruitment of Business Development Executives, Training Of Business Development Executives, Improving quality of man power, Sales Trainings, KYC training to Business Development Executives, tracking of Sales Process, keeping an account of account quality of all fresh acquisitions etc.*

5. *That the claimant was responsible for conducting interviews of the Business Development Executives and was the authority to hire his team members. Copy of the interview sheets of the several BDEs bearing the signatures of the claimant, as the selection authority, is being marked and collectively annexed as Annexure No.2 to the affidavit.*

6. *That the claimant was also the Reporting Manager to the Business Development Executives recruited by him. Copy of the appointment letters of some BDEs who were supposed to report to the claimant as their reporting manager are being collectively annexed herewith as Annexure No.3 to the affidavit.*

7. *That while discharging his duties as a Sales Manager, the claimant would issue memo to show cause the employees for unauthorized absence etc. Copy of the memo issued by the claimant to show cause the BDEs are being collectively annexed as Annexure No.4 to the affidavit.*

8. That the claimant was the authority responsible for accepting resignation letters of the BDEs. Copy of the resignation letters of the BDEs are being collectively annexed as Annexure No.5 to the affidavit.

9. That the abovementioned facts are in all possibilities evident of the fact that the claimant cannot be covered under the definition of the workman as defined under section 2(s) of the Industrial Disputes Act 1947."

And on the basis of judgment passed by the Odisha High Court in the case of ***Management of Nava Bharat Ventures Ltd. Versus State of Odisha reported in 2024(183) FLR 742***, relevant paragraphs reproduced below:

"*19. Reliance on behalf of opposite party no.3 upon National Engineering Industries (supra) was on the paragraph (Indian kanoon print), reproduced below.*

> *"In Burmah Shell Oil Storage & Distribution Co. of India v. Burmah Shell Management Staff Association & Ors., [1971] 2 S.C.R. 758, this Court observed that a W.P.(C) no.5671 of 2019 workman must be held to be employed to do that work which is the main work he is required to do, even though he may be incidentally doing other types of work. Therefore, in determining which of the employees in the various categories are covered by the definition of 'workman' one has to see what is the main or substantial work which he is employed to do. In The Punjab Co Co-operative operative Bank Ltd. v. R.S. Bhatia (dead) through L.r L.rs., s., [1975] 4 S.C.C. 696 it was held that the accountant was supposed to sign the salary bills of the staff even while performing the duties of a clerk. That did not make the respondent employed in a managerial or administrative capacity. The workman was, therefore, therefore, in that context rightly held as a clerk."(emphasis supplied)*
>
> *Omission of opposite party no.3 to plea plead particulars and adduce evidence in respect of main work done by him under the management results in inability for us to find what was the main or substantial work which he was employed to do. His explanation that at allegation by the management pertains to incidental functions and duties performed by him is insufficient for us to find on his main or substantial work, as that of a workman.*

20. Paragraph Paragraph-15 in Devinder Singh (supra) was relied upon. The paragraph is reproduced below:

> *"Whenever an employer challenges the maintainability of industrial dispute on the ground that the employee is not a workman within the meaning of Section 2(s) of the Act, what the Labour Court/Industrial Tribunal is required to consider is whether the person is employed in an industry for hire or reward for doing manual, unskilled, skilled, operational, technical or clerical work in an industry. Once the test of employment for hire or reward for doing the specified type of work is satisfied, the employee would fall within the definition of 'workman'."*

Above declaration of law is for guidance. We have already said above that the Labour Court misdirected itself in considering and holding opposite party no.3 was a workman. Regarding Bellish India Ltd. (supra) we accept contention made on behalf of the management that view taken in paragraph-4 paragraph is in its favour. This is because in that case the management had alleged the workman used to sign on behalf of it for settlement and he was not merely performing clerical works. The learned single Judge found there was nothing on record to show that the management at any stage W.P.(C) no.5671 of 2019 filed application or inf informed the Labour Court that the duties assigned to respondent were not the duties performed by him and there were other duties which respondent was performing. In this case the management ha had maintained that opposite party no.3 was appointed as supervisor, got training, performed work of supervisor and adduced oral and documentary evidence in support thereof.

21. Impugned award is set aside and quashed. Mr. Misra prays for direction for refund of the deposit along with accruals. Here we must record that op opposite posite party no.3 had withdrawn his application 17 B. We reproduce below order dated 9th made under section 17-B. September, 2019 made by the co co-ordinate ordinate Bench just prior to disposing of the writ petition on order dated 20th September, 2019, since recalled.

> *"This is application has been filed by opposite party no.3 to direct the petitioner to pay the salary as provided under Section 17 17-B B of the I.D. Act till disposal of the writ petition.*
>
> *Learned counsel appearing for opposite party no.3 prays for withdrawal of the I.A. No.7871 of 2019.*
>
> *Prayer is allowed.*
>
> *Accordingly the I.A. No.7871 of 2019 is dismissed as withdrawn."*

Withdrawal of the application resulted in dismissal thereof without liberty to file afresh. On 15th April, 2024 on behalf of the management offer off of settlement was made. Reproduced below are paragraphs 1 and 3 from our order dated 15th April, 2024.

> *"1. Mr. Mishra, learned advocate appears on behalf of petitioner (management) and with reference to our order dated 27th March, 2024 submits, his client is agreeable to the deposit made by it and accruals be given to opposite party no.3, for the writ petition to be disposed of on settlement between the parties.*
>
> *xxx xxx xxx*
>
> *3. Mr. Rath, learned advocate appears on behalf of opposite site party no.3 and submits, the review was allowed in directing deposit of back wages.. If there is to be settlement something over and above must be given by the management. Mr. Mishra submits, there was never any question of payment as relief under section on 17-B 17 in Industrial Disputes Act, 1947. I.A. no.7871 of 2019 seeking the relief was withdrawn by opposite party no.3 as per order dated 9th September, 2019." (emphasis supplied)*
>
> *Subsequent thereto opposite party no.3 filed another application under section 17 17-B. He then pressed for adjudication of it prior to adjudication of the writ petition. By our order dated 21st June, 2024 we said that we felt it fit to forthwith proceed with hearing of the writ petition instead of calling for objection on the second application for relief because inter alia, that would prolong the pendency. In addition to reasons given in that order we note that as on the date for direction of deposit made by the co-ordinate ordinate Bench, there was no application pending under section 17-B. 17-B. As such at that time and thereafter no question arose of disbursement of the amount deposited. Furthermore there was direction for the deposit to be dealt with at disposal of the writ petition. As aforesaid the order was accepted by opposite party no.3. Petitioner has succeeded and it is entitled to refund of the deposit, including the accruals. The Registrar will, on production of certified copy of this judgment, judgment encash the deposit and accruals and disburse same to petitioner.*

Accordingly, learned counsel for the respondent submits that claimant does not come within the scope of definition of Section 2(s) of the I.D. Act 1947, hence, the claim is liable to be rejected.

Findings & Conclusions :

In order to decide the fact that whether the claimant, Sri Vivek Krishna Mishra falls within the definition of 'workman' as provided U/s 2 (s) of the Act or not, it would be appropriate to have a glance on the definition of 'workman' as given U/s 2(s) of the Act, which reads as under:

> *"(s) "workman" means any person employed (including an apprentice) in any industry to do any skilled or unskilled manual or clerical work for hire or reward and includes, for the purposes of any proceeding under this Act in relation to an industrial dispute, but does not include any person employed in the naval, military, or air service of the Crown."*

The definition was amended by Amending Act No. 36 of 1956 which came into force from 29th August, 1956 to read as follows:-

> *(s) "workman" means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory technical or clerical work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal discharge, or retrenchment has led to that dispute, but does not include any such person -*
>
> > *(i) who is subject to the Army Act, 1950, or the Air Force Act, 1950, or the Navy (Discipline)Act, 1934; or*
> >
> > *(ii) who is employed in the police service or as an officer or other employee of a prison; or*
> >
> > *(iii) who is employed mainly in a managerial or administrative capacity; or*
> >
> > (i) *who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."*

The change brought about by this Amendment was that the persons employed to do "supervisory" and "technical" work were also included in the definition for the first time by this Amendment, although those who were employed in a supervisory capacity were so included in the definition provided their monthly wage did not exceed Rs.500.

The definition of 'workman' was further amended by Amending Act No.46 of 1982 which was brought into force w.e.f. 21.8.1984 and the same reads as under:-

> *"(s) "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal discharge, or retrenchment has led to that dispute, but does not include any such person-*
>
> > *(i)who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957);*
> >
> > *(ii) who is employed in the police service or as an officer or other employee of a prison; or*
> >
> > *(iii) who is employed mainly in a managerial or administrative capacity; or*
> >
> > *(iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature*."

A bare perusal of the aforementioned provision clearly indicates that a person would come within the purview of the said definition if he : (i) is employed in any industry; and (ii) performs any manual, unskilled, skilled, technical, operational, clerical or supervisory work.

The Hon'ble the Apex Court in the case of ***All India Reserve Bank Employees Association Versus Reserve Bank of India reported in AIR 1966 SC 305*** held as under:-

> *"24. The amending Act of 1956 introduced among the categories of persons already mentioned persons employed to do supervisory and technical work. So far the language of the earlier enactment was used. When, however, exceptions were engrafted, that language was departed from in clause (iv) partly because the draftsman followed the language of clause(iii) and partly because from persons employed on supervision work some are to be excluded because they draw wages exceeding Rs. 500 per month and some because they function mainly in a managerial capacity or have duties of the same character. But the unity between the opening part of the definition and clause (iv) was expressly preserved by using the word 'such' twice in the opening part. The words, which bind the two parts, are not-"but does not include any person". They are -- "but does not include any such person showing clearly that what is being excluded is a person who answers the description " employed to do supervisory work" and he is to be excluded because being employed in a 'supervisory capacity' he draws wages exceeding Rs. 500 per month or exercises functions of a particular character. The scheme of our Act is much simpler then that of the American statutes. No doubt like the Taft-Hartley Act the amending Act of 1956 in our country was passed to equalize bargaining power and also to give the power of bargaining and invoking the Industrial Disputes Act to supervisory workmen, but it gave it only to some of the workmen employed on supervisory work. 'Workman' here includes an employee employed as supervisor. There are only two circumstances in which such a person ceases to be a workman. Such a person is not a workman if he draws wages in excess of Rs. 500 per month or if he performs managerial functions by reason of a power vested in him or by the nature of duties attached to his office. The person who ceases to be a workman is not a person who does not answer the description "employed to do supervisory work" but one who does answer that description. He goes out of the category of "workmen" on proof of the circumstances excluding him from the category."*

Further in the case of ***H.R. Adyanthaya & others Versus Sandoz India Ltd. reported in (1994) 5 SCC 373***, the Hon'ble Apex Court held as under:-

> *"10. It is thus obvious from the decision that the contention on behalf of the workman before the Industrial Tribunal as well as before this Court was that the employee was doing either manual or clerical work, and that not only he had no supervisory duties but he was doing his work under the direction of his superiors and, therefore, he was a workman within the meaning of the definition of workman as it stood then. The dispute in question had arisen prior to 6th January, 1956. The definition of 'workman' at the relevant time included only those persons who were employed to do any skilled or unskilled manual or clerical work. Hence the relevant contention on behalf of the workman which was negatived by this Court. An inference from this decision is also possible, viz., that if the employees' work was mainly manual or clerical, he would have, even as the definition stood then, been covered by it."*

(see *C.G. Gupta Versus Glaxo Smith Klin Pharmaceutical Limited reported in (2007) 7 SCC 171*)

And the Hon'ble the Apex Court in the case of ***Chauharya Tripathi & others Versus L.I.C. of India & others reported in 2015(7) SCC 263***, in Para-7 held as under:-

> "7. *Keeping in view the question posed at the beginning, we are obligated to make a survey of the authorities that have been pronounced by this Court specifically pertaining to the Development Officers working in LIC. A three-Judge Bench of this Court in S.K. Verma vs. Mahesh Chandra & Anr.3, adverted to the definition of 'workman' as originally defined under Section 2(s) of the Act and the substantial amendment that was brought in 1956 in respect of the definition of 'workman' and referred to the decision in Workmen vs. Indian Standards Institution4 and dwelled upon the hierarchy of officers working in LIC, the duties performed by such officers and 2 (2008) 11 SCC 319 3 (1983) 4 SCC 214 4 (1975) 2 SCC 847 eventually held thus :*
>
> > *"A perusal of the above extracted terms and conditions of appointment shows that a development officer is to be a whole time employee of the Life Insurance Corporation of India. that his operations are to be restricted to a defined area and that he is liable to be transferred. He has no authority whatsoever to bind the Corporation in anyway. His principal duty appears to be to organise and develop the business of the Corporation in the area allotted to him and for that purpose to recruit active and reliable agents, to train them to canvass new business and to render post-sale services to policy-holders. He is expected to assist and inspire the agents. Even so he has not the authority to appoint agents or to take disciplinary action against them. He does not even supervise the work of the agents though he is required to train them and assist them. He is to be the 'friend, philosopher and guide' of the agents working within his jurisdiction and no more. He is expected to stimulate and excite the agents to work, while exercising no administrative control over them. The agents are not his subordinates. In fact, it is admitted that he has no subordinate staff working under him. It is thus clear that the development officer cannot by any stretch of imagination be said to be engaged in any administrative or managerial work. He is a workman within the meaning of s.2(s) of the Industrial, Disputes Act*."

(*See also : Om Carrying Corporation Versus Tilock Narang & others reported in 2016(148) FLR 915 & T.Boby Francis Versus Lucy Varghese & others reported in 2016(149) FLR 866 and Jagdish Prasad Sharma Versus Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Gurugram & another reported in 2023 (178) FLR 565*)

The Hon'ble Bombay High Court in the case of ***M/s S.K. International & another v. Ashok Tanaji Tambe & another 2024 (180) FLR 994*** has held as under:

> *"17. On the aspect of determination of status of workmen, within the meaning of Section 2(s) of the ID Act, 1947, the legal position is fairly crystalized. Such determination must be based on the appreciation of the nature of the duties performed by the employee. Nomenclature of the post, which the employee holds, is not of decisive significance. The description of the nature of the duties also does not furnish a surer foundation for determination. Use of grandstanding expressions and management jargon to describe otherwise ordinary and normal functions, is not uncommon. It is, therefore, necessary to correctly appreciate the nature of the core duties discharged by a person whose status is questioned.*
>
> *18. Section 2(s) of the ID Act, 1947 defines the expression workman to mean any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward. In the case of H.R. Adyanthaya and ors. v. Sandoz (India) Ltd., the Constitution Bench of the Supreme Court enunciated that to be qualified to be workman under Section 2(s), the person must be employed to do the work which falls in any of the specified categories, manual, unskilled, skilled, technical, operational, clerical or supervisory. To put it in other words, it is not enough that a person is not covered by any of the four exceptions to the definition. It is also fairly well settled that the burden is on the person, who asserts the status of the workman under Section 2(s) to establish with reference to the dominant nature of his duties that the work which the said person performs falls within one of the specified categories under Section 2(s) of the Act, 1947.*
>
> *19. In the case of Burmah Shell Oil Storage and Distribution Company of India Ltd. v. The Burmah Shell Management Staff Association and others, the Supreme Court adverted to a situation where an employee is entrusted to discharge multifarious duties. In such cases, the Supreme Court held, it would be necessary to determine under which classification the employee will fall for the purpose of finding out whether he does not go out of the definition of "workman" under the exceptions. The principle is now well settled that for this purpose, a workman must be held to be employed to do that work which is the work he is required to do, even though he e may be incidentally doing other types of work. The Supreme Court referred to its earlier decision in the case of Ananda Bazar Patrika (P) Ltd. v. Workmen", where the principle was enunciated as under:*
>
> > *"3. The question whether a person is employed in a supervisory capacity or on clerical work, in our opinion, depends upon whether the main and principal duties carried out by him are those of a*

supervisory character, or of a nature carried out by a clerk. If a person is mainly doing supervisory work, but, incidentally or for a fraction of the time, also does some clerical work, it would have to be held that he is employed in supervisory capacity; and, conversely, if the main work done is of clerical nature, the mere act that some supervisory duties are also carried out incidentally or as a small fraction of the work done by him will not convert his employment as a clerk into one in supervisory capacity....." (Emphasis supplied)

20. In the case of Arkal Govind Raj Rao v. CIBA Geigy and India Ltd., another three-Judge Bench of the Supreme Court re-exposited the principle in the following words:

"6. where an employee has multifarious duties and a question is raised whether he is a workman or someone other than a workman the Court must find out what are the primary and basic duties of the person concerned and if he is incidentally asked to do some other work, may not necessarily be in tune with the basic duties, these additional duties cannot change the character and status of the person concerned. In other words, the dominant purpose of employment must be taken into consideration and the gloss of some additional duties must be rejected while determining the status and character of the person.....

21. A useful reference in this context can also be made to a decision of the Supreme Court in the case of S.K. Maini v. M/s. Carona Sahu Company Ltd. and Anr. wherein it was enunciated that when an employee is employed to do the types of work enumerated in the definition of workman under Section 2(s), there is hardly any difficulty in treating him as a workman under the appropriate classification but in the complexity of industrial or commercial organisationd quite a large number of employees employees are often required to do more than one of work. In such cases, it becomes necessary to determine under which classification the employee will fall for the purpose of deciding whether he comes within the definition of workman or goes out of it. In this connection, reference may be made to the decision of this Court in Burmah Shell Oil Storage (supra). In All India Reserve Bank Employees' Assn. v. Reserve Bank of India, it has been held by this Court that the word 'supervise' and its derivatives are not words of precise import and must often be construed in the light of context, for unless controlled, they cover an easily simple oversight and direction as manual work coupled with the power of inspection and superintendence of the manual work of others. It has been rightly contended by both the learned counsel that the designation of an employee is not of much importance and what is important is the nature of duties being performed by the employee. The determinative factor is the main duties of the employee concerned and not some works incidentally done. In other words, what is, in substance, the work which employee does or what in substance he is employed to do. Viewed from this angle, if the employee is mainly doing supervisory work but incidentally or for a fraction of time also does some manual or clerical work, the employee should be held to be doing supervisory works. Conversely, if the main work is of manual, clerical or of technical nature, the mere fact that some supervisory or other work is also done by the employee incidentally or only a small fraction of working time is devoted to some supervisory works, the employee will come within the purview of 'workman' as defined in Section 2(s) of the Industrial Disputes Act."

Moreover, the Hon'ble Supreme Court by means of judgment dated 2.4.2004 passed in the case of ***M/s. Bharat Airtel Limited Versus A.S. Raghavendra passed in Civil Appeal No.5187 of 2023 (2024 INSC 265)*** after taking into consider the definition of 'workman' as given u/s 2 's' of the I.D. Act, 1947; held as under:-

"23. The records also show that the respondent, in fact, performed a supervisory role over the managers and was the Assessing Manager of his team, which consisted of Managers in the B-1 & B-2 Levels. Moreover, after adducing the evidence led by both sides, the Labour Court vide a detailed order and discussion, has held the respondent not to be covered under "workman" as per Section 2(s), ID Act. The learned Single Judge has not appreciated the discussion by the Labour Court and the available evidence in their true perspective, relying mainly upon the judgment in Ved Prakash Gupta (supra). In Paragraph 12 of Ved Prakash Gupta (supra), it was held "...It must also be remembered that the evidence of both WW1 and MW1 shows that the appellant could never appoint or dismiss any workman or order any enquiry against any workman. In these circumstances we hold that the substantial duty of the appellant was only that of a Security Inspector at the gate of the factory premises and that it was neither managerial nor supervisory in nature in the sense in which those terms are understood in industrial law. In the light of the evidence and the legal position referred to above we are of the opinion that the finding of the Labour Court that the appellant is not a workman within the meaning of Section 2(s) of the Act is perverse and could not be supported."

24. A bare perusal of the above makes it crystal clear that absence of power to appoint, dismiss or conduct disciplinary enquiries against other employees was not the only reason for the Court to conclude in Ved Prakash Gupta (supra) that the appellant therein was a "workman". At this juncture, we may note that although Ved Prakash Gupta (supra) was decided by a 3-Judge Bench, in a later judgment by a 2-Judge Bench of this Court in S K Maini v M/s Carona Sahu Company Limited, (1994) 3 SCC 510, it was held that "...It should be borne in mind that an employee discharging managerial duties and functions may not, as a

matter of course, be invested with the power of appointment and discharge of other employees. It is not unlikely that in a big set-up such power is not invested to a local manager but such power is given to some superior officers also in the management cadre at divisional or regional level. ..." The judgment in S K Maini (supra) is innocent of Ved Prakash Gupta (supra), but we do not find any inconsistency in the statement of law laid down in S K Maini (supra), given our reading of Ved Prakash Gupta (supra) as enunciated hereinabove.

25. That being said, in our considered view, mere absence of power to appoint, dismiss or hold disciplinary inquiries against other employees, would not and could not be the sole criterion to determine such an issue. Holding otherwise would lead to incongruous consequences, as the same would, illustratively, mean that, employees in high-ranking positions but without powers to appoint, dismiss or hold disciplinary enquiry would be included under the umbrella of "workman" under Section 2(s), ID Act. We cannot be oblivious of the impact of our decisions. In this context, reference to the decision in Shivashakti Sugars Limited v Shree Renuka Sugar Limited, (2017) 7 SCC 729 is apposite:

"43. It has been recognised for quite some time now that law is an interdisciplinary subject where interface between law and other sciences (social sciences as well as natural/ physical sciences) come into play and the impact of other disciplines on Law is to be necessarily kept in mind while taking a decision (of course, within the parameters of legal provisions). Interface between Law and Economics is much more relevant in today's time when the country has ushered into the era of economic liberalisation, which is also termed as "globalisation" of economy. India is on 118 [2024] 4 S.C.R. Digital Supreme Court Reports the road of economic growth. It has been a developing economy for number of decades and all efforts are made, at all levels, to ensure that it becomes a fully developed economy. Various measures are taken in this behalf by the policy-makers. The judicial wing, while undertaking the task of performing its judicial function, is also required to perform its role in this direction. It calls for an economic analysis of law approach, most commonly referred to as "Law and Economics". In fact, in certain branches of Law there is a direct impact of Economics and economic considerations play predominant role, which are even recognised as legal principles. Monopoly laws (popularly known as "Antitrust Laws" in USA) have been transformed by Economics. The issues arising in competition laws (which has replaced monopoly laws) are decided primarily on economic analysis of various provisions of the Competition Commission Act. Similar approach is to be necessarily adopted while interpreting bankruptcy laws or even matters relating to corporate finance, etc. The impress of Economics is strong while examining various facets of the issues arising under the aforesaid laws. In fact, economic evidence plays a big role even while deciding environmental issues. There is a growing role of Economics in contract, labour, tax, corporate and other laws. Courts are increasingly receptive to economic arguments while deciding these issues. In such an environment it becomes the bounden duty of the Court to have the economic analysis and economic impact of its decisions. 44.We may hasten to add that it is by no means suggested that while taking into account these considerations, specific provisions of law are to be ignored. First duty of the Court is to decide the case by applying the statutory provisions. However, on the application of law and while interpreting a particular provision, economic impact/effect of a decision, wherever warranted, has to be kept in mind. Likewise, in a situation where two views are possible or wherever there is a discretion given to the Court by law, the Court needs to lean in favour of a particular view which subserves the economic interest of the nation. Conversely, the Court [2024] 4 S.C.R. 119 M/S Bharti Airtel Limited v. A.S. Raghavendra needs to avoid that particular outcome which has a potential to create an adverse effect on employment, growth of infrastructure or economy or the revenue of the State. It is in this context that economic analysis of the impact of the decision becomes imperative."

*(See:**Vandana Joshi v. Standard Charted Bank Ltd., Mumbai (2011) (1) Mh.L.J. 415**)*

The Hon'ble the Bombay High Court in the case of ***Godrej and Boyce Manufacturing Company Ltd. Vs. Shivkranit Kamgar Sanghatana & others 2024 LLR 492*** held as under:

"10. Before August 29, 1956, the Industrial Disputes Act's definition of "workman" only included skilled and unskilled manual or clerical workers, excluding those in supervisory, technical roles. However, amendments in 1956 and 1982 expanded the definition to include these categories. The Supreme Court judgments in May and Baker (India) Ltd. v. Workmen AIR 1967 SC 678, Western India Match Co. Ltd. v. Workmen 1963:INSC:130 : AIR 1964 SC 472, and Burmah Shell Oil Storage and Distribution Co. of India Ltd. v. Burma Shell Management Staff Assn. (1970) 3 SCC 378 interpreted the definition in earlier years, focusing on whether the work done by individuals fell within the categories of manual, clerical, supervisory, or technical. These judgments determined the eligibility of individuals as workmen based on the nature of their tasks. Subsequent judgments in S.K. Verma v. Mahesh Chandra (1983) 4 SCC 214] Ved Prakash Gupta v. Delton Cable India (P) Ltd. (1984) 2 SCC 569 and Arkal Govind Raj Rao v. Ciba Geigy of India Ltd. (1985) 3 SCC 371 failed to notice the earlier decisions and adopted a broader interpretation. They held that individuals not fitting the four specified categories could still be considered workmen- however, the judgment in A. Sundarambal v. Govt. of Goa, Daman and Diu (1988) 4 SCC 42 reaffirmed the importance of

the earlier precedents, asserting that a person must fall within the defined categories to qualify as a workman. Ultimately, the legal position is crystallized in the case of H.R. Adyanthaya and Ors. Vs. Sandoz (India) Limited reported in 1994 5 SCC 737 wherein the five Judges' bench of Apex Court held that to be considered a workman under the ID Act, an individual must be employed in manual, unskilled, skilled, technical, operational, clerical or supervisory. It is not enough that he is not covered by either of the four exceptions to the definition. It is held that to attract provisions of Section 2(s) of the I.D. Act, the employee must show that he performs any work enumerated in the definition and that he is excluded under the four exceptions as provided in the definition.

11. For the adjudication of the status of a workman, what is required to be seen is an emphasis on the actual work performed by such an employee. In other words, if the nature of duties actually performed predominantly shows that he discharges duties to do the work of any of the categories listed in Section 2(s). He is not covered by exceptions of Section 2(s); it would be decisive of the matter that the employee is a workman, and the designation or salary of the employee would be irrelevant.

12. It is now well settled that the adjudication of the issue as to person working within the meaning of Section 2(s) of the I.D. Act has to be determined with reference to the principle of nature of his duties and functions. The dominant purpose of employees must be taken into consideration, and the gloss of some additional duties must be rejected while determining the status and character of a person. The Tribunal needs to first address itself as to various duties assigned to the employees and then draw a conclusion of law as to whether in the light of duties assigned to him would be whether the employee would be working or not."

The ***Hon'ble Supreme Court in Civil Appeal arising out of SLP (C) No. 5660 of 2023 Lenin Kumar Ray v. M/s Express Publicaitons (Madurai) Ltd. Decided on 21.10.2024*** held as under:

"15. The law is well settled that the determinative factor for "workman" covered under section 2(s) of the I.D. Act, is the principal duties and functions performed by an employee in the establishment and not merely the designation of his post. Further, the onus of proving the nature of employment rests on the person claiming to be a "workman" within the definition of section 2(s) of the I.D. Act.

16. In the present case, there is no specific document adduced relating to the actual work and functions performed by the employee. In the absence of any concrete material to demonstrate the nature of duties discharged by the employee, the employment orders issued by the management will have to be taken into consideration and as per the same, the employee was appointed as Junior Engineer and was promoted as Assistant Engineer, on the administrative side. It is the evidence of M.W.1 that the employee was supervising the work of two junior Engineers, who were working under him, which was also admitted by the employee in his cross examination, as W.W.1. Even according to the employee, the nature of duties and functions discharged by him was of supervisory. As such, applying the pre-amended provision of section 2(s), since the employee was terminated from service on 08.10.2003 and was drawing salary of more than Rs.1,600/-, he does not come within the definition of "workman". Therefore, we hold that the employee is not a "workman" as defined under section 2(s) and is not covered by the provisions of the I.D. Act. In view of the same, the order of the High Court upholding the finding of the Labour Court that the employee was a "workman" within the definition of post-amended section 2(s), is liable to be set aside."

Accordingly, in not shell it can be said that from perusal of definition of 'workman' indicates that a person would come within the purview of Section 2(s) of the I.D. Act if he is employed in an industry and performs any manual, unskilled, skilled, technical, operational, clerical or supervisory work. Further, the definition also indicates exceptions as to when a person would not be covered in the aforementioned definition. It inter alia states that a person would not be covered under the definition if (i) he is employed in a managerial or administrative capacity or (ii) who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

Reverting to the facts of the case and taking into consideration the submissions made by Sri R.K.Verma, learned counsel on behalf of applicant specially on the basis of Clause-7 of Broad Terms & Conditions of Employment of Sri Akhilesh Srivastav attached with his appointment order dated 8.6.2010, quoted hereinabove, the reliance is placed on the basis of para-5 of the written statement quoted below:-

"*5. The Ist Party since his joining to the bank was mainly performing Supervisory duties as Sales Manager - Liabilities Sales at Lucknow branch as well as Alambagh branch of Bank. He was supervising the Sales team of 4 to 5 Sales officers at the branches. The names of some of the officers who were directly reporting to him at different period since his joining at the IInd Party Bank are as follows:-*

a. Atul Dixit

b. Poonam Tripathi

c. Geeta Singh

d. Durgesh Kumar Mishra

e. Nimesh Nagar

f. Gaurav Singh

g. Preeti Mishra

h. Sanjeev Tripathi

i. Saurabh Shukla

j. Uttam Pal

k. Vinay Kumar Shukla

l. Alok Kumar Yadav

m. Shilki Srivastava

n. Mohit Chanani

o. Harshit Prakash

p. Purnima Chaudhary

q. Neha Keshwani"

And further evidence which was filed on behalf of respondent-management (Sri Nagendra Prasad KV) on 12.11.2020 and the annexures filed along with the said evidence which are not in dispute between the parties, from the perusal of Annexure-1 annexed along with the evidence filed on behalf of management, the relevant portion of which is quoted below:-

Goal Setting (Balanced Score Card Template) for 2012-13

Staff Capacity Resourcing - Training

a.KYC Training of BDE's

b.Sales training (mandatory 1 Sales Pulse every week)

and Annexure-2 participation of Sri Akhilesh Srivastav in conducting the Interview of Business Development Executive along with other authorities of Bank, the position which emerges out that the applicant was one of the member of Team/Selection Committee for selection of candidates on Business Development Executive (BDE Interview Assessment Sheet).

Moreover the Annexure-3 also clearly establishes that candidates who were selected on the post of Business Development Executive in the Bank has to report to the applicant for the purpose of KYC Training & sales training as per Annexure-1 to the evidence dated 12.11.2020.

In addition to above said facts, as per the documents filed by the respondents as Annexure-4 along with the evidence on affidavit which is quoted below:-

"*Re: Unauthorized leave*

Emp. No.0030917

ING Vysya Bank Ltd.

Branch: Alambagh

It is observed that you, Sanjeev Tripathi:Emp.No.0030917 working as BDE, have been on unauthorized leaves since 1st Sep 2014. You have neither informed the reasons for your absence nor have submitted any leave application to your reporting manager. Therefore, show cause is issued to you asking for explanation within 3 days as to why your absence till date should not be treated as unauthorized.

You are hereby directed to report for duty with immediate effect and also submit your explanation for your absence. If you fail to report for duty as indicated above, you are liable for disciplinary action.

Reporting Manager's Name

Akhilesh Srivastava

Designation:Sales Manager

Signature : Sd/-

(Branch –Alambagh)"

And from the perusal of Annexure-5 it would be clear that employees namely Durgesh Mishra, Purnima Chaudhary, Harshit Prakash & Neha had submitted their resignation letter to the Sales Manager, ING Vysya Bank Limited, Alambagh Branch, Lucknow i.e. applicant Sri Akhilesh Srivastav.

Thus, in view of said facts (specially the documents which are annexed by the respondents as Annexure-1, the relevant portion of which is quoted hereinabove which pertains to KYC & Sales Training of BDE's (Business Development Executive)) that on the basis of the same whether the claimant discharged the duties of supervisory nature or not in the Bank.

In this regard it is relevant to mention that an employee requires a range of different skills and this means there are various areas that are important to cover in their training. Different companies and specialism require different types of training but there are some areas that are important for most supervisory positions. Understanding these areas can help you to plan supervisory training or know what to expect if you're undergoing this type of training.

Communication skills are essential for most employees but it's particularly important to ensure trainers can communicate effectively. Good communication skills help these professionals to motivate and lead teams, give instructions and provide feedback. Effective communication helps teams to work together effectively so it's essential supervisors understand this skill.

Trainer roles involve taking responsibility for leading a team, so leadership skills essential. For some supervisors, this is their first role where they have to lead a team, so it's important they learn how to do this effectively. Depending on the nature of the job, this might also include learning how to lead teams that work remotely. This requires different skills than leading on-site teams, including the ability to use technology effectively.

Conflict resolution is an important part of training. These professionals may manage conflicts amongst team members or may be responsible for escalated customer complaints and conflicts. Understanding how to manage conflict effectively helps teams to work together well and also helps trainers to manage customer issues appropriately and increase customer satisfaction.

Employee wellbeing awareness is another significant area for trainers. These jobs may involve supporting the well-being of other team members, including those working remotely. Trainers are responsible for identifying wellbeing-related concerns and providing appropriate support to team members. This might involve directly providing support or referring staff members to other sources of support.

As a supervisor, it might be necessary to have more in-depth knowledge about the industry or organisation and its policies. Trainers might include information on these subjects to give managers or supervisors deeper insights. This helps them to improve their performance and oversee their teams effectively. Deepening this knowledge can also support further career progression.

There are a number of different ways to train new incumbents and provide ongoing training to them. The most effective approaches are likely to depend on the requirements of the business and the individual.

On-the-job training means learning as you work. This often involves trying processes and actions for the first time and reflecting on what you learn. This type of training is common, especially in busy environments where it might be necessary for trainers to start working quickly. This type of training exposes new trainers to real work situations. They usually have support from more experienced colleagues whilst they're undergoing this type of training.

For some topics, like industry or company-related information, presentations and lectures can be an appropriate form of training. Trainers can take their own notes about important points or training providers can offer print-outs or copies of the presentation that trainees can refer back to when necessary. When you provide this type of training, consider whether it's the most appropriate method for the topic you're discussing. It's also essential to give trainees an opportunity to ask questions about the content of the training.

Self-directed training gives trainers the power to identify areas where they want to improve and focus on developing. This can make trainees feel more motivated to learn. It's often possible to conduct self-directed training at your own pace. This can make it easier to fit the training around work responsibilities. This is likely to be a feature of ongoing training where existing trainers can identify aspects of their job where they want to develop their knowledge. This type of training can also support career progression.

Online training is highly varied and can often be useful for trainers. Online training courses range from short courses a company might produce in-house to courses that lead to formal qualifications. Trainders can often complete this type of training at their own pace. Online training can include a variety of different content including videos, quizzes and reading materials.

Resilience is an important skill for many professionals and training can help to develop it. This can be particularly important for managers who might face additional pressures. This type of training helps trainees to cope with work-related challenges, manage and support, answer questions, give feedback and help trainers identify solutions now issues o concerns.

For trainers who work closely with the company's products, product training can be beneficial. Trainers who already work at the company are likely to be familiar with its products but more in-depth knowledge is sometimes important for trainers. Providing detailed training in this area means trainers are better able to support other team members and customers with questions or concerns about products.

Thus, taking into consideration the above said facats and the meaning of word "Supervise" as given in the Oxford Dictionary, page 680, relevant poriton quoted hereinbelow:

Supervise **verb watch and direct the performance of a task or the work of a person*.

Meaning of word "Supervise" as given in the Oxford Dictionary English (English-Hindi Dictionary), page 1199 quoted ehreinbelow:

Supervise - to watch sb/sth to make sure that work is being done properly or that people are behaving correctly.

And the cross examination of applicant Sri Akhilesh Srivastav (Evidence on affidavit) dated 8.5.2017, the relevant portion of which is quoted below:-

मेरा basic job sales promotion का था। उसके साथ ही HR के direction पर मै branch manager के साथ candidates dk interview job के लिए लेकर अपनी recommendation के साथ HR को भेजता था। मुझे कोई report नहीं करता था। Branch Manager के साथ मैं employees से सम्बन्धित किसी fact की higher authorities को report करता था।

In view of the said facts it is clearly established from the material on record i.e. pleadings, documents/evidence etc. And after hearing learned counsel for the parties that duties which have been discharged by the claimant is of supervisory nature, hence, he does not fall within the ambit and scope of definition of 'Workman' as defined under Section 2(S) of Industrial Disputes Act 1947.

Further, I have carefully gone through the judgments cited by Sri R.K. Verma, Learned Counsel for the applicant and the same are not applicable to the facts and circumstances of the case, in view of the points/facts as stated hereinabove, hence, claimant/Sri Akhilesh Srivastav cannot derive any benefit on the basis of these judgments.

Order

For the foregoing reasons the claimant/Sri Akhilesh Srivastav does not fall within the ambit and scope of definition of 'Workman' as defined under Section 2(S) of Industrial Disputes Act 1947, hence, he is not entitled for any relief.

The present I.D. Case filed by the claimant is hereby dismissed.

Award as above.

Lucknow.

28th May, 2025 Justice ANIL KUMAR, Presiding Officer

नई दिल्ली, 24 जून, 2025

का.आ. 1141.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **बॉम्बे इंटेलिजेंस सिक्योरिटी (पी) लिमिटेड, भुवनेश्वर; निदेशक, अखिल भारतीय आयुर्विज्ञान संस्थान (एम्स), भुवनेश्वर** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री मानस रंजन बारिक, भुवनेश्वर** के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, भुवनेश्वर पंचाट **(संदर्भ संख्या 40/2019)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल - 42025-07-2025-144-आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 24th June, 2025

S.O. 1141.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (**Ref. No. 40/2019**) of the **Central Government Industrial Tribunal cum Labour–Bhubaneswar,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Bombay Intelligence Security (P) Ltd., Bhubaneswar; Director, All India Institute of Medical Sciences (AIIMS), Bhubaneswar,** and **Shri Manas Ranjan Barik, Bhubaneswar** which was received along with soft copy

of the award by the Central Government on 17.06.2025.

[No. L-42025-07-2025-144-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present:

Sri Dinesh Kumar Singh,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 40/2019

Filed under Section 2-A(2) of the I.D. Act

Date of Passing Order – 24th January, 2025

Between :-

Shri Manas Ranjan Barik,
Ex. Cath Lab Technician,
Sijua, Khandagiri, Bhubaneswar.

… Applicant-Workman.

(And)

1. Bombay Intelligence Security (P) Ltd.,
   HIG, Duplex-20, Sailashree Vihar,
   Near DAV School, Chandrasekharpur,
   Damana Square, Bhubaneswar-21, Dist. Khordha.
2. Director, All India Institute of Medical Sciences (AIIMS),
   Sijua, Sarkantara, P.S. Khandagiri, Bhubaneswar,
   Dist. Khurda.

… Managements.

Appearances:

Sri Nitish Kr. Mishra, … For the Applicant-Workman.
Advocate.
Sri Subrat Kumar Mishra, … For the Management.
Advocate.

ORDER

The applicant-workman has filed an application under section 2-A(2) of the Industrial Disputes Act (herein-after referred as an "Act").

2. The case of the applicant-workman as per his statement of claim in brief is as follows:-

That, he was engaged as a Cath Lab. Technician through evaluation committee on 14.03.2017 for working at Cardiology Department in the management of AIIMS, Bhubaneswar and he had worked with utmost sincerity, diligently in AIIMS, Bhubaneswar. He had attended his duties continuously and by this process he had put in 240 days continuous service, but all of a sudden he was served with a notice of his termination with effect from 13.06.2018 on the ground that he was irregular in duty as well as indiscipline. The action of the management was an unfair labour practice. He approached the Regional Labour Commissioner (Central), Bhubaneswar but no result was yielded. Hence he has filed the present claim petition. He has prayed to answer the present dispute in his favour by passing an award with direction for his reinstatement into service and for payment of full back wages.

3. The 1st Party-Management has appeared and filed its written statement. The case of the 1st Party-Management in brief is as follows:-

That, the present proceeding of the applicant workman is bad in law and not maintainable either by fact or law.

He was engaged through the Management No. 1 and worked as Cath Lab. Technician at Cardiology Department of AIIMS, Bhubaneswar which was a supervisory work.Further, he was independently performing his duty and he was drawing salary of Rs. 37,927/- per month from the Management No. 1. He was drawing salary which is more than ten thousand and consequently he is not in the category of workman as defined under section 2(s) of the I.D. Act. Moreover, in course of performance of his duty several irregularities in his service such as unauthorized absence from duty, irregular in office time, non performing his duty sincerely & diligently and adopting mal practices by demanding money from patients in cardiology department were reported. Inspite of several show cause notices and warning letter issued to him by the Management No. 1 he did not change his ill attitudes and behaviour, so having no alternative remedy, the Management No. 1 had decided to take severe disciplinary action.

A prayer has been made to dismiss the case of the applicant-workman.

4. When the case was posted for evidence of the 2nd party-workman he did not turn to adduce evidence in order to prove his case inspite of several opportunities given to him.

5. Learned lawyer for the applicant-workman orally submitted that the applicant is neither interested to adduce evidence in this case nor he is in touch with him, so he has left taking step in this case.

6. In view of such fact and in view of the submissions of the learned lawyer for the applicant the evidence of the applicant is closed.

7. Now in this case there is no oral and documentary evidence available on behalf of the applicant-workman. Moreover, the onus lies on the applicant-workman to prove his case, but he has neither examined himself before the Tribunal nor produced any documentary evidence before the Tribunal.

8. Hence, the Tribunal finds and holds that the applicant-workman has failed to prove its case.

9. In view of such the application filed by the applicant-workman under section 2-A(2) is dismissed.

10. A copy of this order is sent to the appropriate government for notification as required under section 17 of the I.D. Act, 1947. File is consigned to record room.

Dictated &Corrected by me.

DINESH KUMAR SINGH, Presiding Officer

नई दिल्ली, 24 जून, 2025

का.आ. 1142.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **निदेशक, डाक सेवाएं, कुरनूल क्षेत्र (आंध्र प्रदेश); पोस्टमास्टर जनरल, डाक सेवाएं, कुरनूल क्षेत्र, (आंध्र प्रदेश); मुख्य पोस्टमास्टर जनरल, डाक सेवाएं, विजयवाड़ा (आंध्र प्रदेश); एसआरएम, अधीक्षक आरएमएस, तिरुपति (आंध्र प्रदेश)** के प्रबंधतंत्र के संबद्ध नियोजकों और **सर्किल सचिव, राष्ट्रीय आरएमएस एवं एमएमएस कर्मचारी संघ ग्रेड-सी, तिरुपति** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय- हैदराबाद पंचाट (संदर्भ संख्या 42/2024) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल - 42025-07-2025-151- आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 24th June, 2025

S.O. 1142.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. ID. No. 42/2024) of the **Central Government Industrial Tribunal cum Labour Court– Hyderabad** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Director, Postal Services, Kurnool Region (A.P); The Postmaster General , Postal Service, Kurnool Region, (A.P); The Chief Postmaster General, Postal Services, Vijayawada(A.P.); The S.R.M. O/o the Superintendent of RMS, Tirupati (A. P)** and **The Circle Secretary, National Union of RMS & MMS Employees Union Gr-C, Tirupathi, Worker,** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42025-07-2025-151-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

Present: - **Sri IRFAN QAMAR**

Presiding Officer

Dated the 9th day of June, 2025

INDUSTRIAL DISPUTE No. 42/2024

Between:

The Circle Secretary,

National Union of RMS & MMS Employees Union Gr-C,

Narayanapuram, Tirupathi

Andhra Pradesh Circle, SA HRO, Tirupathi - 517501 ..….Petitioner

AND

1. The Director, Postal Services,
   Kurnool Region Kurnool District-518002(A.P)
2. The Postmaster General , Postal Service, Kurnool Region,
   Kurnool district-518002(A.P)
3. The Chief Postmaster General, Postal Services,
   Andhra Pradesh Circle, Vijayawada-520013(A.P.)
4. The S.R.M. O/o the Superintendent of RMS,
   H.Q. Complex, 2nd Floor, Tirupathi District-517501(A.P.) … Respondents

Appearances:

For the Petitioner : The Circle Secretry of the Union

For the Respondent(s): Sri Ravindra Viswanath, Advocate

AWARD

The Government of India, Ministry of Labour by its order No.6/1/2024-B1 dated 26-8-2024 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Department of Post, Kurnool and their workmen. The reference is,

SCHEDULE

"Whether the management of Department of Post, Kurnool establish that initiating departmental enquiry under Rule 14 of CCS (CCA) Rule, 1965 against Sri S Chakrapani, SA RMS TP Div., Tirupathi and Circle Secretary, National Union of RMS & MMS Employees Union Gr-C, Andhra Pradesh Circle on the grounds of passing derogatory remarks and criticize the decisions/ policies of the Department, running a Youtube channel and for provoking and inciting the Grameena Dak Sevaks to participate in the strike is not an unfair labour practice under Section 2(ra) & Schedule 5 of Industrial Disputes Act, 1947 ? If not, what relief the workmer is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 42/2024 and notices were issued to the parties concerned.

2. Matter placed today in the special drive for disposal of cases. The petitioner has filed a memo with the averment that since the multi-level discussions at all the levels made and the union has been given with a hope by the employer that the issue will be solved amicably and no harsh action will be taken against the employee Sri S Chakrapani, SA HRO Tirupathi and Circle Union of National Union of RMS & MMS Employee union, Group-C wishes to withdraw the case. Therefore, the petitioner prayed to grant permission to withdraw the case.

3. Perused the record. In view of memo filed by petitioner, petitioner is permitted to withdraw the referred dispute and reference is answered accordingly.

Award is passed accordingly. Transmit.

Typed to my dictation by Shri Vinay Panghal, Lower Division Clerk , corrected by me on this the 9th day of June, 2025.

IRFAN QAMAR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 24 जून, 2025

का.आ. 1143.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **प्रभारी भारतीय खेल प्राधिकरण (एसएआई) प्रशिक्षण केंद्र, द्रोणाचार्य स्टेडियम कुरुक्षेत्र; क्षेत्रीय निदेशक, भारतीय खेल प्राधिकरण (एसएआई), सोनीपत** के प्रबंधतंत्र के संबद्ध नियोजकों और **राकेश यादव, कुरुक्षेत्र** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय-2,चंडीगढ़, पंचाट (संदर्भ संख्या **34/2015**)को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 17.06.2025 को प्राप्त हुआ था।

[सं. एल - 42012/140/2015-आईआर-(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 24th June, 2025

S.O. 1143.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/2015) of the **Central Government Industrial Tribunal cum Labour Court -2, Chandigarh,** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Incharge Soprts Authority of India (SAI) Training Centre, Draunacharya Stadium Kurukshetra; Regional Director, Sports Authority of India (SAI), Sonepat** and **Sh. Rakesh Yadav, Kurukshetra** which was received along with soft copy of the award by the Central Government on 17.06.2025.

[No. L-42012/140/2015-IR (DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH (PRESIDED OVER BY MR. KAMAL KANT).

ID No.34/2015

Registered on:-02.09.2015

Rakesh Yadav Son of Sh. Kanha Ram, C/o Madaan Mobile House, Sector 13, Kurukshetra.

----Applicant

Versus

1. Incharge Soprts Authority of India (SAI) Training Centre, Draunacharya Stadium Kurukshetra.
2. Regional Director, Sports Authority of India (SAI), NSNC, Chandigarh (Now GT Road, Sonepat, Northern Centre, Bhalgar, Distt. Sonepat).

----Respondents

Present:- Sh. Rajbir Singh, Ld. Counsel for Applicant.

Sh. Praveen Goyal, AR Respondents.

Award : 02.05.2025

1. Central Government vide Notification No.L-42012/140/2015 (IR(DU) dated 21.08.2015, under Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 (hereinafter called as "the Act"), has referred the following industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of Sports Authority of India in terminating the services of the workman is legal and justified? If not, what relief the workman is entitled to and from which date?"

2. Brief facts as stated by the applicant are that the applicant was appointed by the respondents on 30.11.2002 as part time plumber upto 30.03.2003 by following the due process of law and after conducting interview and thereafter, the period was extended from time to time and the applicant has worked upto 16.08.2014 without any break in service. During this period, the wages of the applicant was Rs.500/- per month and it was increased by the respondents time to time and lastly the applicant was drawing Rs.2000/- per month. During this period, the work and

conduct of the applicant remained good to the satisfaction of the respondents and on 17.08.2014, the applicant was not allowed to work and was told by the respondents that his services are retrenched. No prior notice was given nor any inquiry was conducted, nor opportunity of hearing was given to the applicant and norms of the Act were not followed, through the applicant had completed more than 240 days of service without any break in the employment of the respondents and hence provisions of Section 25F of the Act has been violated. The post/work, from which the applicant has been retrenched is still subsisting and the applicant is still unemployed from the date of his retrenchment till today. The applicant was receiving monthly wages through bank from the respondents during his tenure of service. It is submitted that his termination is illegal and it is prayed that the applicant be re-instated with full back wages and continuity in service with all consequential benefits.

3. Notice of the application was given to the respondents, who filed written statement raising several preliminary objections, inter alia that the applicant was never appointed or employed by the respondents. The applicant was never issued appointment letter by the appointing authority. The alleged letter of appointment was issued by a coach, who was not appointing authority for Group D employees. The appointing authority of Group D was Regional Director of the respondents, who did not issue any appointment letter to the applicant. There is nothing on record that the Regional Director extended the appointment of the applicant from time to time. Applicant was paid honorarium, which cannot be termed as wages as most of the time he used to depute his subordinate for the job. His name does not appear on the mustar roll or register of employees/workmen. Applicant was called by service provider on fixed remuneration. The applicant was doing private job at various other places and come to department on call basis as and when necessity arose. The present petition is not maintainable under the Act and is liable to be dismissed.

Evidence of the parties:-

4. In order to prove his case, applicant himself appeared and filed his affidavit WW1/A and closed his evidence on 31.10.2019 and during evidence, he also tendered his appointment letter Ex.A1 dated 30.11.2002. Thereafter, respondents have examined Sh. Subhash Chand Mussania, Assistant Director, Sports Authority of India, Northern Regional Centre, Sonepat as MW1, who tender his affidavit as MW1/A and thereafter, respondents closed their evidence on 14.02.2024 and the matter was fixed for arguments.

Submissions of Applicant:

5. While arguing the case, ld. counsel for applicant contended that in this case, applicant was appointed by respondent on 30.11.2002 vide letter no.39/SAI/SCT/KKR/23 as part time plumber up to 30.03.2003 after following due process of law and thereafter, period was extended from time to time upto 16.08.2014 without any break in service. Initially, the applicant was appointed at the rate of Rs.500/- per month and it was increased from time to time and lastly, applicant was drawing Rs.2000/- per month. The applicant had completed more than 240 days in continuous service in one calendar year, immediately preceding the date of his termination. Thus the termination of applicant is in violation of Section 25F of the Act. The services of the applicant have been wrongly dispensed with and he is entitled for reinstatement with back-wages.

Submissions of Respondents:-

6. On the other hand, ld. counsel for the respondents contended that in this case, applicant has not completed 240 days in any year proceeding of his alleged date of termination on 16.08.2014 and the reference is liable to be dismissed.

Findings:

7. I have given due consideration to the arguments advanced by AR for both the parties.

8. First question which require to be determined is whether the applicant comes within the definition of "workman" as is defined in Section 2(S) of the Act. It is mentioned here that applicant was appointed as part time plumber as per his claim petition and affidavit submitted before the Tribunal. In plain words the applicant was performing his duties as labourer/unskilled worker. He was not in supervisory or administrative post requiring him to perform only administrative post requiring him to perform only administrative duties. While interpreting Section 2(S) Hon'ble Supreme Court in the case of ***Devinder Singh V/s Municipal Council, Sanaur AIR 2011 Supreme Court 2532***, has observed as follows:-

"The source of employment, the quantum of recruitment, the terms and conditions of employment/contract of service, the quantum of wages/ pay and mode of payment are not at all relevant for deciding whether or not a person is a workman within the meaning of Section 2(s) of Act. The definition of workman also does not make any distinction between full time and part time employee or a person appointed on contract basis. There is nothing in the plain language of Section 2(s) from which it can be inferred that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed on temporary, part time or contract basis on fixed wages or as a causal employee or for doing duty for fixed hours is not a workman."

9. Thus, Hon'ble Supreme Court has clarified that the definition of workman also does not make any distinction between full time or part time or a person appointed on contract basis. There is nothing in employee plain language of

Section 2(S) from which it can be infer that only person employed on regular basis or a person employed for doing whole time job is a workman and the one employed temporary, part time or contract basis on fixed wages or as a casual employee or for doing duty for fixed hours is not a workman. In view of the ratio of law enunciated in the above ruling, in my considered opinion, the applicant herein admittedly falls within the definition of 'workman' under Section 2(S) of the Act.

10. Second question, arises for consideration is whether the respondent Sports Authority of India is an industry. It is also pertinent to mention here that applicant was appointed as part time plumber by the respondents and was paid honorarium of Rs.500/- per month upto 30.03.2003. He was not governed by the service rules of respondent. Thus the applicant was governed by the Act as there was no particular rule or Act, vide which he was governed. Therefore, the Sports Authority of India would be deemed as industry as it fulfills all the requirement of industry. Moreover, there is no special Act, by which applicant is governed. Therefore, the respondent Sports Authority of India would be treated as industry.

11. Third question, which require consideration is that whether the services of applicant were dispensed with without following Section 25F of the Act. Burdened to prove was on the applicant. In this regard, his appointment letter is very important, which has been placed on record by the applicant as Annexure A1 and relevant portion is read as follow:

Sub:- Appointment as part time plumber on Honorarium basis.

*You are hereby appointed as part time plumber on honorarium basis for a period upto 30.03.2003 @Rs.500/- per month with immediate effect. You will look after the water supply/sewerage etc. of the premises of this centre twice a week i.e. Monday and Thursday and on emergency.*_____

(Harphool Singh)

Incharge

A perusal of aforesaid para of appointment letter clearly reveals that applicant was engaged as part time plumber and was paid honorarium @500/- per month, working for 2 days in a week on Monday and Thursday and payment was made through his bank account. Moreover, applicant has miserably failed to prove that he worked regularly on the said post and has worked 240 days in the preceding year from the date of his termination i.e. 16.08.2014. Thus, at the most, in case applicant worked 2 days a week, it would become 104 days in a year, thus his case was not attracted under Section 25F of the Act as he failed to prove that he worked 240 days prior to his termination on 16.08.2014 in the preceding year.

12. Reference is answered accordingly.

13. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 24 जून, 2025

का.आ. 1144.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **एयर इंडिया लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह - श्रम न्यायालय, मुंबई-1**,के पंचाट **(संदर्भ संख्या 1/16/2014)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **23/06/2025** को प्राप्त हुआ था।

[सं. एल - 11012/07/2014- आईआर-(सी-एम-I)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 24th June, 2025

S.O. 1144.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 1/16/2014)** of t**he Central Government Industrial Tribunal-cum-Labour Court, Mumbai-I** as shown in the Annexure, in the industrial dispute between the Management of **M/s. Air India Ltd.** and **their workmen** received by the Central Government on **23*/06/2025*.**

[No. L-11012/07/2014– IR (CM-I)]

MANIKANDAN. N., Dy Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1

MUMBAI

Present

JUSTICE ANIL KUMAR

Presiding Officer

REFERENCE NO.CGIT-1/16 OF 2014

Parties: Employers in relation to the management of

Air India Ltd.

vs

Their workmen

Appearances:

For the first party / Management	:	Mr. Lancy D'souza, Adv.
For the Union	:	Mr.Rahil, Authorized Representative.
State	:	Maharashtra

Mumbai, dated the 24th day of March, 2025

AWARD

The matter was taken up in Lok Adalat through video conferencing.

The present reference has been made by the Central Government by its order dated 28.03.2014 passed in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947. The terms of reference as per the schedule to the said order are as under:

> "Whether the demand of the Union i.e. Indian Pilots Guild, for immediately reverting back 54 Captains and 139 First Officers mentioned at Annexure '3' and Annexure '5' respectively in the demand notice dated 26.08.2013, from Air India Charters Ltd. (Brand name Air India Express), in accordance with the provisions of the 'Record Note of discussion' agreed between the parties is legal, proper and justified? To what relief, including all financial and consequential benefits, etc. these Captains and First Officers are entitled to and from which date?

An application has been filed by Mr.Lancy D'souza, learned counsel for the first party that all the pilots were repatriated back to Air India Ltd. And therefore, the dispute does not survive. Mr.Rahil, Fazalbhoy, Authorized Representative for the Union has no objection.

Hence, in these circumstances, this Tribunal has no other option except to pass No Dispute Award. No dispute Award is passed accordingly.

Justice ANILKUMAR, I/c Presiding Officer

नई दिल्ली, 24 जून, 2025

का.आ. 1145.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **एयर इंडिया लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह– श्रम न्यायालय, मुंबई-2,**के पंचाट **(संदर्भ संख्या 2/74/2001)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **23/06/2025** को प्राप्त हुआ था।

[सं. एल - 11012/7/2001- आईआर-(सी-एम-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 24th June, 2025

S.O. 1145.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 2/74/2001***)* of t**he Central Government Industrial Tribunal-cum-Labour Court, Mumbai- ii,** as shown in the Annexure, in the industrial dispute between the Management of **M/s. Air India Ltd.** and **their workmen** received by the Central Government on **23*/06/2025*.**

[No. L-11012/7/2001-IR (CM-I)]

MANIKANDAN. N., Dy Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

SHRIKANT K. DESHPANDE

Presiding Officer

REFERENCE NO. CGIT-2/74 of 2001

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

AIR INDIA LTD.

(Now NATIONAL AVIATION COMPANY OF INDIA LIMITED)

The Managing Director,

M/s. Air India Ltd,

Mumbai Airport

Santacruz (East)

Mumbai- 400029.

AND

THEIR WORKMEN. & (L/R'S)

Late Shri Jasbir Singh Rathaur

L/R'S:

1. Rajinder Kaur Rathaur,

Wife of Late Jasbir S. Rathaur,

208-B, Leafstone Apartments,

Patiala Road, Highland Marg, Zirakpur,

Punjab- 140603.

2. Shri. Karan Singh Rathaur,

Son of Late Jasbir S. Rathaur,

208-B, Leafstone Apartments,

Patiala Road, Highland Marg, Zirakpur,

Punjab- 140603.

APPEARANCES:

Party No. 1 : Mr. Lancy D'Souza
Representative

Party No. 2 : Mr. Mohan Bir Singh
Advocate

AWARD PART- I

(Delivered on 14.11.2024)

1. This Reference has been made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, vide Government of India, Ministry of Labour & Employment, New Delhi, order No. L-11012/7/2001 C-1 dated 30.04.2001. The terms of reference given in the schedule are as follows:

`Whether the action of the Management of Air India is dismissing Sh. Jasbir Singh Rathour, Master Technician, w.e.f. 16.09.1998 is legal, just & fair? If not, to what relief is the workman concerned entitled?`

My learned predecessor has framed the preliminary issues as follows-

1. Whether the domestic inquiry conducted against the workman was as per the principles of natural Justice?
2. Whether the findings of the inquiry officer are perverse?

2. My findings to the above issues are as below-

1. Yes.
2. No.

3. In above findings are for the following reasons-

REASONS

Issue No.1-In support of this issue, the Second Party has examined himself as Ex-21, subjected for cross examination. Whereas the First Party adduced the evidence of Nagesh Sharma and he was cross-examined by the counsel for the Second Party.

Admittedly the Second Party was working as Master Technician with the First Party. He was served with the charge sheet dated 18.12.1996 for the misconduct of absence without leave for more than 10 days and Act of subversive of discipline as per the Model Standing Orders (Central) alleging that, the Second Party remained absent from duty since 04.04.1996 till 18.12.1996 i.e., till the date of issuance of charge sheet without any leave application, he was called for duty by sending the various letters however he did not join duty. It is not disputed that, the Second Party did not submit the reply to the charge sheet. Thereafter inquiry committee was constituted to conduct the inquiry for the misconduct against the Second Party. The Second Party failed to remain present in the inquiry except on 30.04.1997 therefore the inquiry committee constituted for inquiry, proceeded ex-parte inquiry against the Second Party on 17.09.1997. During inquiry evidence of R. Fernandes and V. V. Pandit was recorded on behalf of the management, then inquiry committee submitted the report of inquiry i.e., the findings on 24.11.1997 holding Second Party guilty for misconduct. Then, the copy of inquiry report was served with the Second Party to which he submitted reply on 21.01.1998.

4. It is also not disputed that, the Second Party was informed that, since new certified standing orders became applicable, his misconduct of absence without leave would be treated as covered u/c. 19 (2) (VI) of the certified standing orders. Thereafter the Second Party was served with the show cause notice proposing the punishment for removal from service u/c. 20 (1) of the certified standing order and after reply to show cause notice submitted by the Second Party on 18.06.1998, the competent Authority passed the order of removal from service w.e.f. 10.07.1998, and the same was communicated by covering later dated 16.09.1998.

5. It further reveals that, the Second Party also filed the approval proceedings against the Second Party seeking approval for the punishment of removal from service before the Court as per Sec. 33 (2) b of the Industrial Disputes Act accordingly sought approval for punishment awarded to the Second Party.

6. It is contended on behalf of the Second Party that, the charge sheet dated 18.12.1996 was issued by S.V. Vasan, Additional General Manager-Engineering (LMD) under model standing order however he was not competent Authority to issue the charge sheet nor he had jurisdiction to amend charge sheet or ordered continuation of inquiry similarly the punishment was also awarded by a person who was not authorized to issue the punishment order. It is further contended that, no real opportunity was given to remain present in the inquiry for defending himself as notice of inquiry was not served. The disciplinary action is not in accordance with the standing order applicable to the establishment. The appeal filed by the Second Party was rejected by Secretary-cum-General Manager Adm., who is not appellate Authority as such the inquiry conducted against the Second Party is in violation of principles of the natural Justice.

7. The reliance has been placed on behalf of the Second Party on the following decisions of superior courts.

1. Krushnaknat B. Parmar v/s. Union of India & Anr. (2012) 3SCC 178

2. Satya Prakash Sharma v/s. Asstt. Commandment, R.P.F.C. Railway Agra ad ors. 1998 (79) 200 (Allahabad High Court)

3. Amanullah v/s. Chennai Port Trust 2015 I CLR 85 (Madras High Court)

4. State of Punjab and ors. v/s. Bakshish Singh (1998) 8 SCC 222

5. Om Prakash & ors. v/s. Union of India (2001) 2 SCC

6. Harbans Singh v/s. Presiding Officer and ors. 2015 I CLR 315

7. Shri D. V. Kapoor v/s. Union of India & Ors. JT 1990 (3) Supreme Court 403

8. Air India Ltd. v/s. Sashikala Jatav & ors. 2010 (II) CLR 737 (BHC)

9. Food Corporation of India workers v/s. Food Corporation of India (1996) 9 SCC 439

10. P.K. Bhatia v/s. Delhi Vidyut Board and ors. 1999 I CLR 901

11. Union of India v/s. Deena Nath Gaikar (1998) 7 SCC 569

12. Air India Ltd. v/s. Sashikala Jatav and ors. 2005 I CLR 234 (BHC)

13. Chairman-cum-Managing Director Coal v/s. Mukul Kumar 2009 (III) CLR 645

14. Jaipur Zila Sahkri v/s. Shir Rampal 2002 I CLR 789

15. M/s. Glaxo Laboratories (I) Ltd v/s. Presiding officer Labour Court 1984 (1SCC)

8. As against this, the First Party submitted that, the Second Party remained unauthorisedly absent from duty w.e.f. 04.04.1996 inspite of various letters issued by Additional General Manager (AV) LMD therefore he was charged vide charge sheet dated 18.12.1996 for the misconduct under Model Standing Orders (Central). The Second Party failed to submit reply therefore inquiry committee was constituted to inquire into misconduct, the Second Party was allowed to represent by the officer of Trade Union of which he was member. All the time notices of inquiry were sent to the Second Party by RPAD and under certificate of posting UCP. On 24.09.1997, the Second Party informed telephonically about his inability. On 30.04.1997 the Second Party personally remained present in inquiry and requested for time accordingly the proceedings was adjourned to 17.06.1997. On 17.06.1997, the sister of the Second Party informed inability of the Second Party to attend inquiry on medical reasons therefore inquiry was adjourned to 24.6.1997 however the Second Party failed to attend inquiry. Thereafter the Second Party was also informed the next date of inquiry i.e., 02.07.1997 by sending letters through RPAD as under certificate of posting for inquiry dated 15.07.1997 and again inquiry was adjourned to 14.08.1997, 17.09.1997.

9. The First Party further submitted that, in spite of various opportunities, the Second Party failed to remain present in the inquiry before the inquiry committee therefore ex-parte inquiry was conducted against the Second Party. Similarly, during inquiry two witnesses were examined on behalf of the First Party and on the basis of material available on record inquiry committee has drawn the findings holding Second Party guilty for misconduct.

The First Party also submitted that, after application of Certified Standing Order informed to Second Party by notice and issued punishment of removal from service was served and the punishment was approved by Tribunal also as such there is no violation of the principles of natural Justice.

10. He put his reliance on the various decisions.

1. Delhi Transport Corporation v/s. Sardar Singh (2004) 7 SCC 574.

2. LIC of India v/s. R. Dhandapani (2006) 13 SCC 613.

3. J.K. Synthetics v/s. K.P. Agrawal & Anr. (2007) 2 SCC 433.

4. S. Nagiah v/s. Indina Aluminium Company Ltd. & Ors. (1990) SCC Online Karnataka 258.

5. Vermon Lobo v/s. Himalaya Drug Company and Anr. (1998) SCC Online Bombay 905.

11. It will not be out of place to mention here that, though the oral evidence has been recorded in the inquiry by both the parties on the point of fairness of inquiry, however as per the decision of our **Bombay High Court in Divisional Controller MSRTC Latur v/s. Bhushan Jagannath Rao Bulbule reported in 2018 (5) Maharashtra Law Journal Page No. 936.** The fairness of inquiry has to be assessed only on the basis of inquiry papers therefore the oral evidence recorded before the Court on this issue needs no consideration at all. So let us consider the aspect of the fairness of inquiry i.e., whether the inquiry conducted against the Second Party was as per the principles of natural Justice on the basis of inquiry papers available on record and the oral evidence which was recorded prior to this decision before the Court.

Similarly, while assessing the aspect of fairness of enquiry and violation of the principle of natural justice, it is necessary to consider whether there is utter disregard to the principles of natural justice causing serious prejudice to the employee.

12. It has sufficiently come on record through the cross examination of the Second Party that, he was served with the charge sheet dated 19.12.1996 and on that basis enquiry was conducted by the management. He attended the enquiry only on 30.04.1997. Last date of enquiry was on 17.09.1997. The Second Party refused about receipt of page 46 of Ex-13 intimating various dates of enquiry however he admitted the address appeared on the notices. However the Second Party admitted about the receipt of S/C notice at page 37 of Ex-13, which was replied by him however denied for want of remembrance that, he complained about the dates of enquiry.

13. It is clear from the above admissions of the Second Party that, he had knowledge about the enquiry initiated against him for the misconduct leveled against him in the charge sheet, he attended on date of enquiry, her sister also intimated about his inability of Second Party to attend enquiry. The address appeared on the notices was correct and

also admitted about the receipt of show cause notice on the same address. In fact, when the Second Party was knowing about the initiation of enquiry against him and he attended the enquiry only on single day and on another date of enquiry sought time in the enquiry by sending his sister on fixed date of enquiry. In such knowledge of enquiry, it was also his duty to make enquiry about the progress of the enquiry and even after receipt of S/C notice also the Second Party could have complained about the non-receipts of the notices of enquiry in reply to show cause notice but unfortunately no such complaints were made by the Second Party.

Furthermore, it has come on record that dates of enquiry were informed by sending notices through RPAD & under certificate of posting on his residential address, which was fairly accepted by the Second Party, then burden shifts on Second Party to point out about non-receipt of notices of enquiry, however no such attempts were made to that effect. In such circumstances, and in absence of that, it can be safely infer that, the Second Party had knowledge of enquiry and he remained knowingly absent before enquiry committee as such, it can be safely said that opportunity of hearing was given to the Second Party and the inquiry was conducted in accordance with the principles of natural justice and Model Standing Order (Central).

14. I have gone through the decisions of **Supreme Court in union of India & Ors. v/s. Dinanath Shantaram Karekar & Ors. Reported in (1998) Supreme Court cases 569** relied on behalf of the Second Party. In the matter before Hon'ble Lordships, the issue was in respect of Mode of Service of charge sheet and other documents, in which it has been held that single attempt was not sufficient to serve charge sheet and further efforts should have been made for effecting service, before proceeding ex-parte against the delinquent employee. In the case in hand, the Second Party received the charge sheet, he was present in the enquiry sought adjournment and on another date his sister was present in the enquiry sought time for medical reason of the Second Party. It means, the Second Party was fully aware about the issuance of charge sheet, conduction of enquiry by enquiry committee. There is presumption that notice/letter sent by Under Certificate of posting always receives on the given address and the Second Party never denied the address on which the notices or enquiry were sent to him on that address therefore, to my mind the facts before me, are distinguishable than the facts before Hon'ble Lordships therefore the decision relied is distinguishable on facts.

15. It is contended on behalf of the Second Party that, S.V. Vasan, Addl. Manager-Engineering (LMD) was not competent to issue charge sheet nor he had any jurisdiction to amend the charge sheet, however the Second Party could not point out before the Court, that who was competent to issue charge sheet. There appears no dispute that, Addl. G. Manager was certainly not below the rank of the Second Party therefore issuance of charge sheet by person senior in the grade of Second Party, thus I do not think that, he was not competent to issue charge sheet. Not only this but, the Second Party miserably failed to point out before this Tribunal that what prejudice was caused to him due to issuance of charge sheet by Addl. G. Manager Engineering (LMD) and in absence of that, there is no violation of the rules and enquiry conducted based on charge sheet is illegal.

16. Mr. Lancy D'Souza, Learned counsel for the First Party invited my attention to the decision of **High Court Karnataka, Between S. Nagiah v/s. Indian Aluminiun Company** in which it has been appreciated that, the matter has to be looked at in a proper perspective. Has the workman suffered any prejudice, was he not in position to understand the nature and scope of charges. It has been held that, the disciplinary enquiry is only for the purpose of establishing the guilt of particular workman or the delinquent officer on the case may be, beyond that there is no logic in stating that, the charge memo must be issued by the competent officer. There is no question of any competent officer issuing charge memo.

17. As regards the issuance of punishment order by incompetent person, it reveals that, show cause notice dated 03.06.1998 was issued to the Second Party by General Manager Engineering (Maintenance), to which the Second Party submitted his reply on 18.06.1998 and thereafter the order of punishment was passed on 10.07.1998 and the same was signed by Babu Peter General Manager- Engineering (Maintenance). In fact, the Second Party submitted his reply to show cause notice issued by the General Manager however he never challenged the competency of General Manager, who subsequently passed final order. Not only this but, the Second Party also preferred Review Petition to Chairman AIR India however there is also no whisper in that Petition also about incompetency of the disciplinary Authority therefore this objection seems to be after thought and cannot be accepted.

18. I have carefully gone through the decisions of our **Bombay High Court in AIR India Ltd. v/s. Sashikala Jatav reported in 2005 (1) CLR 234** relied on behalf of the Second Party, in which it has been appreciated that, if the dismissal order was not passed by the competent Authority that vitiate the order of dismissal. In the matter before Hon'ble Lordship, the Second Party was trainee Air Hostess and after enquiry her services were dismissed by Dy. Director in flight services however it was appreciated that, the dismissal order has not been passed by an Authority duly notified in notification dated 17 November 1990 issued by Air India in pursuance of the Provisions of the Industrial Employment (Standing Orders) Act 1946. In that notification in respect of any workman not above the grade of Senior Check Air Hostess or its equivalent the Authority impowered to impose the punishment prescribed will be Manager-Cabin Crew, Chief Air Hostess or equivalent or Station Master or equivalent.

In the case in hand, the Second Party was working as a Master Technician in the Engineering Department, he

was served with the charge sheet by Addl. Manager Engineering and dismissal order was passed by General Managering (Maintenance). The Second Party nowhere objected the competency of charge sheet issuing Authority nor the competency of the Authority, who passed the dismissal order. Not only this but, no such notification if any in which the competent Authorities are prescribed nor the copy of certified standing orders have been brought before the Tribunal by the Second Party to justify their stand taken before the Tribunal and in absence of that, it will be unsafe to say that, the order of dismissal passed by the Authority who was incompetent. In view of this, with due respect I do not think that, the above referred decision has any application to the case in hand.

19. I have also gone through the another decision of Division Bench of our High Court in **Air India v/s. Shashikala Jatav & Anr. 2010 (II) CLR 737** relied on behalf of the Second Party, in which it has been appreciated that, when model standing orders are applicable and disciplinary enquiry is conducted under model standing orders, Service Regulation cannot be relied upon to prove that, the Authority which passed impugned order is the competent Authority. There cannot be any quarrel about the ratio laid down by the Second Party, however in the case in hand initially the enquiry against the Second Party was conducted as per the model standing order, in which Manager seems to be shown as competent to Award punishment. True it is that, in the case in hand, during pendency of enquiry Certified Standing Orders came into existence, however I retreat that, the copy of Certified Standing has not been placed on record showing Authorities competent to pass the dismissal orders therefore facts before the Hon'ble Lordships were distinguishable than facts before me, therefore I do not think that, the said decision is any way helpful for the Second Party in the instant case.

20. Much is argued on behalf of the Second Party on the basis of cross-examination of Mr. N. S. Sharma that, at the time of recording evidence one member of inquiry committee was not present and in his absence the evidence was recorded, therefore the procedure of inquiry is not proper and violation of principles of natural justice.

21. It is worthwhile to mention here that, the inquiry committee appointed for inquiry was a quasi judicial proceedings therefore it was not expected that, he will conduct the proceedings like judicial proceedings therefore assuming that, at the time of recording evidence of management witness one of the member was absent, still the Second Party couldn't pointed out before the Court that, which prejudice was caused to him due to absence of one member of enquiry committee and in absence of any prejudice, it will unsafe to say that on this count alone the enquiry conducted by inquiry committee was against the principles of natural justice.

22. I have gone through the various decisions relied on behalf of the (Supra) however most of the decisions are in respect of punishment therefore those are not necessary to be considered which deciding the issue of fairness of enquiry.

23. From the above discussion it is clear that, the Second Party was served with the charge sheet by a person competent to issue the same, he failed to submit reply, remained present on one date of enquiry and on another date sought adjournment through his sisters. The notices of enquiry were sent to him by RPAD as well as under Certificate of posting on the address available with the management and though the Second Party had knowledge of enquiry, he never made any enquiry about its progress. The enquiry was conducted ex-parte, in which two witness were examined before enquiry committee as such there is no hesitation to accept that, domestic inquiry conducted against the Second Party workman was as per the principles of natural Justice. Hence I answer this issue in the affirmative.

24. Issue No.2- As regards the perversity of findings, undisputedly the Second Party was served with the charge sheet for the misconducts under clause (3) (e) (h) of the Model Standing Orders namely

(e) Absent without leave for more than 10 days.

(h) Subversive of discipline.

It was alleged against the Second Party that, he was continuously absent from duty w.e.f. 04.04.1996 and 14.10.1996 he did not report for duty.

25. It reveals that, the Second Party did not find his reply to charge sheet nor participated in the enquiry except two days therefore the enquiry committee proceeded ex-parte against the Second Party and in the enquiry statements of two witnesses were recorded on behalf of the management. In addition to these oral evidence recorded in the inquiry, the leave letters dated 05.08.1996, 24.09.1996 & 14.10.1996 which were send to the Second Party as well as letters sent by Second Party alongwith leave record of the Second Party were available on record before the enquiry committee.

26. On careful perusal of the copy of findings available on record it seems that while drawing the findings the enquiry committee considered the oral evidence of the management witness, contents or reasons mentioned in the letters of the Second Party and also the fact that, the Second Party after receipt of charge sheet requested for transfer to Delhi to settled down there and join his duties peacefully with his families. Not only this but, it was also considered the suggestion given by the Second Party that, in the event of non-acceptance of his request for transfer to Delhi he requested for voluntary retirement also.

27. The enquiry committee also appreciated that, the Second Party has not sent communication intimating the

reasons for absent i.e., till 08.08.1996. The reason for absence to attend father's medical checkup / treatment but, it was without evidence and the basis of these observations, the enquiry committee observed that, the charges are proved therefore the findings of the enquiry committee seems to be based on material available on record & not perverse.

28. True it is that, charge sheet was issued under the Model Standing Orders (Central) and thereafter Certified Standing Order of the First Party were made applicable however in Certified Standing Order also absence without leave which is not regularized is also shown as misconduct therefore it will be unsafe to say that, any prejudice have been caused to the Second Party because of the continuation of enquiry as well as findings even after Certified Standing Orders were made applicable to the First Party.

29. Much is argued on behalf of the Second Party that, it must be proved that, the unauthorised absence was willful. In fact the clause of misconduct of absence without leave does not include willful absence and even otherwise also to establish willful absence. The absence of the employee must be for the reasons which are beyond his control.

30. I have gone through the decision of **Krushnakant B. Parmar v/s. Union of India & Anr.** relied by the Second Party (Supra), **State of Punjab & Ors. v/s. Bakshish Singh and Harbans Singh v/s. Presiding Officer & Ors.** relied on behalf of the Second Party.

31. In the decision of **Krushnakant B. Parmar v/s. Union of India & Anr.**, it has been appreciated that, for sustaining such allegations regarding the unauthorized absence, it must be proved that, unauthorized absence was willful. If the absence is due to compelling circumstances under which it was not possible to report for our performed duty such absence cannot be held to be willful and employee cannot be guilty for misconduct. **In State of Punjab & Ors. v/s. Bakshish Singh**, It has been appreciated that, the absence of the employee was regularized by grant of leave without pay, then charge of misconduct did not survive and in **Harbans Singh v/s. Presiding Officer & Ors.**, It has been appreciated that, if the allegations against the workmen is unauthorized absence from duty, the disciplinary Authority is required to prove that, the absence is willful. In absence of such finding, the absence will not amount to misconduct.

32. There cannot be any quarrel about the ratio laid down in the above referred matter. In the case in hand, the Second Party remained absent without sanctioning leave and that too for the reasons of medical checkup of his father and illness of his wife therefore reasons for absence cannot be said to be beyond control. In the earlier decision of the Supreme Court, the Hon'ble Lordship appreciated that, the absence beyond control is absence for illness, accident and hospitalization etc. In the case in hand, it is established before the enquiry committee that, the applicant absent without leave not for his own illness nor accident, nor hospitalization therefore the absence of the Second Party was certainly not for the reasons beyond control, therefore the observations of the enquiry committee in the findings are certainly seems to be proper based on material available on record and cannot be said to be perverse. In such circumstances, it can be said that, the findings of the enquiry officer are not perverse. Hence, I answer this issue in the negative.

In the result, I pass the following Award-

AWARD

The domestic enquiry conducted against the workman was as per the principles of natural Justice & findings of the enquiry officer are not perverse.

Date: 14-11-2024

SHRIKANT K. DESHPANDE, Presiding Officer

नई दिल्ली, 24 जून, 2025

का.आ. 1146.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **एयर इंडिया लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, मुंबई-2**,के पंचाट **(संदर्भ संख्या 2/64/2001)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **23/06/2025** को प्राप्त हुआ था।

[सं. एल - 11012/13/2001- आईआर-(सी-एम-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 24th June, 2025

S.O. 1146.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 2/64/2001)** of t**he Central Government Industrial Tribunal-cum-Labour Court, Mumbai- ii,** as shown in the Annexure, in the industrial dispute between the Management of

M/s. Air India Ltd. and **their workmen** received by the Central Government on **23*/06/2025***.

[No. L-11012/13/2001-IR (CM-I)]

MANIKANDAN. N., Dy Director

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

SHRIKANT K. DESHPANDE

Presiding Officer

REFERENCE NO. CGIT-2/64 of 2001

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

AIR INDIA LTD.

The Managing Director,

Air India Ltd.

Old Airport, Santacruz (E)

Mumbai. (Maharashtra) 400 029.

AND

THEIR WORKMEN.

Mr. Suresh Kumar Yadav

C/o. Navneet M. Yadav

C-1/303, Nikash Lawns,

Pashan, Pune

(Maharashtra) – 411021.

APPEARANCES:

Party No. 1 : Mr. L.L. D'Souza
Representative.

Party No. 2 : Mr. Mohan Bir Singh,
Advocate.

AWARD

(Delivered on 31.01.2025)

1. This Reference has been made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, vide Government of India, Ministry of Labour & Employment, New Delhi, order No. L-11012/13/2001 (C-I) dated 30.04.2001. The terms of reference given in the schedule are as follows:

"क्या एयर इंडिया के प्रबंधतंत्र द्वारा श्री सुरेश कुमार यादव, मास्टर टेक्नीश्यिन को दिनांक 09.01.1997 से बखास्त किया जाना विधिवत्, न्यायोचित एवं सही है। यदि नहीं तो कर्मकार किस राहत के पात्र हैं?"

2. The Second Party was employee of the First Party, he was served with the charge-sheet dated 30.05.1995 for misconducts under clause 14 (3) (g) and 14 (13) (h) of the Model Standing Order and it was alleged against the Second Party that, he remained absent from 13.01.1993 to 25.06.1993 without leave and it was also alleged against the Second Party that penalty was imposed by custom officer on denial of charges, regular inquiry was initiated against the Second Party and after inquiry, the services of the Second Party came to be dismissed by filing approval application before NIT-1 Mumbai. The approval was granted to the dismissal of the Second Party and thereafter the Second Party raised the present dispute against his dismissal.

The Second Party contended that, inquiry conducted against him for misconducts was against the principles of natural justice, in violation of statutory rules and the findings drawn by the inquiry officer are perverse as not supported by rational reasoning. The inquiry committee relied the order passed by the Collector of Customs based on

conjectures, surmises and also illegal. The inquiry committee failed to apply its mind to the facts of the case as such the dismissal is illegal, unjust thus prays for reliefs.

3. The First Party resisted the claim by reply Ex-9. The First Party contended that, the Second Party was dismissed from service w.e.f. 09.01.1997, he raised Industrial Dispute in June 2000, i.e. after about three and half years thus the Reference is hit by delay and laches. The First Party further contended that, there were also Approval Application before CGIT-1, Mumbai, came to be allowed. The First Party further contended that, Collector Customs (Preventive) Mumbai, in adjudication proceeding under Customs Act had levied the penalty of Rs.18,00,000/- on the Second Party u/s. 112 (a) (II) of Customs Act 1952. While working as a Master Technician in the civil work, the workman is absent from 15.01.1993 to 25.06.1993, the said period was treated as leave without pay. The Assistant Collector Customs Mumbai vide letter dated 02.05.1995 informed that, the Second Party was primarily concerned with the clandestine clearance of goods (electronic goods) value Rs. 18,50,000/- as well as Rs.26,01,000/- which were seized by Customs Authority on 02/03 March 1993 as well as on 04.03.1993 therefore Customs Authority imposed penalty to the tune of Rs. 18,00,000/- on the Second Party. The Second Party submitted the reply to charge sheet denied all the contentions mentioned in the charge sheet therefore inquiry committee was constituted and the inquiry was conducted in which the Second Party was participated and defended by the Defense Representative and after inquiry the inquiry committee held the Second Party guilty and on the basis of the findings drawn by the inquiry committee the Second Party was served with the show cause notice and after hearing and taking into consideration the gravity of the misconduct awarded the punishment of dismissal from services therefore the inquiry conducted against the Second Party is just, legal and fair. The findings drawn by the inquiry officer are not perverse and the punishment of the dismissal awarded to the Second Party is just, legal and proper.

My learned predecessor has framed the issues at Ex-10. My findings and reasons to them are as follows-

ISSUES	**FINDINGS**
1.Whether the Reference suffers from delay and laches?	No.
2.Whether the domestic inquiryconducted against the workmanwas as per the principals of natural Justice?	Yes.
3.Whether the findings of the inquiry officer are perverse?	No.
4.Whether the action of the management of Air India Limited in dismissing Shri Suresh Kumar Yadav, Master Technician from services w.e.f. 9th January, 1997 is just, fair and legal?	Yes.
5.What relief the workman is entitled to?	As per Award.

REASONS

4. Issue No.1,2 & 3- It is worthwhile to mention here that, on the basis of pleadings and request of the parities, these issues were tried as preliminary issues and my learned predecessor vide its Part-I Award dated 17.11.2014 declared that, Reference is neither hit by delay and laches nor can be said time barred. Similarly the inquiry conducted against the Second Party is held as fair and proper and the findings of the inquiry officer are not perverse.In view of this, the issues are already answered accordingly.

5. Issue No.4- It reveals that, the Second Party filed a pursis at Ex-40 on 19.06.2019 and thereby informed that, he does not wish to file evidence in the matter and by application Ex-41, the Advocate for Second Party informed to the Tribunal that, they are unaware about the status of the workman and his next kin despite their best efforts, therefore communicated to this court that, they have no instructions to proceed with the matter.

It is worthwhile to mention here that, it has been alleged against the Second Party that, the Second Party remained absent from 13.01.1993 to 25.06.1993 and it was alleged against the Second Party that, as per the order of Collector of Customs dated 22.03.1995 and 31.03.1995, the personal penalty of Rs.18,00,000/- was imposed on him for smuggling of electronic goods. The order passed by Collector of Customs were placed before the inquiry officer and it was held that, the Second Party was guilty for his involvement of his smuggling activities therefore allegations leveled against the Second Party are serious in nature and those are proved in the inquiry. Not only this but, while deciding the Approval Application, the Presiding Officer National Industrial Tribunal CGIT-1, Mumbai also granted

approval for the dismissal of the Second Partyand therefore the punishment awarded to the Second Party cannot be said to the disproportionate. The counsel appearing for the first party invited my attention to the decision of **Supreme Court in LIC of India v/s. R. Dhandapani (2006) 13 SC Cases 613,** in which it has been held that, Sec. 11 (A) is to be exercised only when punishment is found to be shockingly disproportionate to the degree of guilt of the workman. In view of this and in the light of the ratio laid down by the Apex Court of the land, it can be safely said that, the action of the management in dismissing the Second Party w.e.f. 09.01.1997 is just, fair and legal. Hence, I answer this issue in the affirmative.

6. Issue No.5- As I have observed earlier that, the action of dismissal of the Second Party from service w.e.f. 09.01.1997 is just, fair and legal therefore the Second Party is not entitled for any relief as prayed. Hence, I answer this issue in the negative.

AWARD

i. The Reference is answered in the negative.

ii. The Second Party is not entitled for relief as prayed.

iii. No order as to costs.

iv. The copy of Award be sent to the Government.

Date: 31-01-2025

SHRIKANT K. DESHPANDE, Presiding Officer

नई दिल्ली, 24 जून, 2025

का.आ. 1147.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **भारतीय खाद्य निगम,** के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, बैंगलोर** के पंचाट **(संदर्भ संख्या 58/2023)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **23/06/2025** को प्राप्त हुआ था।

[सं. एल - 22013/01/2025- आई.आर. (**सी**-एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 24th June, 2025

S.O. 1147.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 58/2023*)*** of t**he Central Government Industrial Tribunal-cum-Labour Court, Bangalore** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporations of India,** and **their workmen** received by the Central Government on **23/06/2025**.

[No. L-22013/01/2025-IR (CM-II)]

MANIKANDAN. N., Dy Director

ANNEXURE

BEFORE THE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE, CAMP COURT At HYDERABAD

"Shram Sadan",
G G Palya, Tumkur Road,
Yeswanthpur, Bangalore – 560 022.

DATED : 31ST JANUARY 2025

PRESENT : **Smt. K P INDIRA B.A., LLB.**

Presiding Officer

C R No. 58/2023

I Party	**II Party**
The General Secretary, Food Corporation of India Workers Union, No. 58/1, Diamond Harbous Road, KOLKATA – 700 023.	The Regional Manager, Food Corporation of India, 10, E-End Main Road, NAL Layout, 4th T Block, Tilak nagar, Jayanagar, BANGALORE – 560 041.

Appearances

I Party : **Self**

II Party : **Self**

1. The Office of the Deputy Chief Labour Commissioner (C), Government of India, Ministry of Labour, Bengaluru vide Order No. 95(FOC/55)2023-B4 dated 01.12.2023 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as "The Act") (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDULE

"Whether the action of the Management of Food Corporation of India, Bangalore in recovering the salary paid towards demurrage charges from DPS workers is proper, legal and justified?

If not, to what relief the petitioner Union is entitled to?"

2.After registering the case the date of hearing was fixed as 20.02.2024. The matter was posted for Appearance of the I Party and to file claim statement. During the pendency of the Industrial Dispute, the 1st Party filed a Memo for advancement of the dispute along with Joint Memo duly signed by I Party and the II Party stating that a Memorandum of Settlement has been drawn between the parties on 21.01.2025 and in view of the settlement arrived at the 1st Party has decided not to pursue the matter and file any claim statement to the reference in hand and the matter may be closed.

3. Perused the records. The petitioner has filed a Memo dated 30.01.2025 which bears the signature of the 1st Party Union Representative duly authorized by the General Secretary to the 1st Party Union along with Memo of Withdrawal of CR No. 58/2023 the present reference in hand. The Joint Memo is duly signed by the 1st Party Union Representative and Sri Bhagwati Dan Charan, Assistant General Manager (Law) of the 2nd Party. Authorisation letter in respect of the 2nd Party is also produced along with Joint Memo Therefore, in view of the above, the Joint Memo is recorded and the prayer is allowed. The petition is thus dismissed as closed. Transmit.

AWARD

Reference is dismissed as closed.

(Dictated to Secretary to Court, transcribed by him, corrected and signed by me on 31st January 2025)

K P INDIRA, Presiding Officer

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